









THE  
*CALCUTTA REVIEW.*

VOLUME LXXXII.

April 1886.

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*No man who hath tasted learning but will confess the many ways of profiting by those who, not contented with stale receipts, are able to manage and set forth new positions to the world: and, were they but as the dust and cinders of our feet, so long as in that notion they may yet serve to polish and brighten the armoury of truth, even for that respect they were not utterly to be cast away.—MILTON.*

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CALCUTTA :

PRINTED & PUBLISHED BY

THOMAS S. SMITH, CITY PRESS, 12, BENTINCK STREET,  
MESSRS. THACKER, SPINK & CO., GOVERNMENT PLACE, N.

MADRAS: MESSRS. HIGGINBOTHAM & Co.

BOMBAY: MESSRS. COOPER, MADON & CO. LD., FORT.

LONDON: MESSRS. TRÜBNER & CO., 57 & 59, LUDGATE HILL.



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## ART. I.—MISSIONARIES AT THE MOGHUL COURT; IN SOUTHERN AND IN PORTUGUESE INDIA, DURING THE REIGN OF AKBAR AND AFTER IT.

THE Jesuits were indebted for their admission to the Court of the Emperor Akbar as much to their peculiarly conciliatory policy as to his lax opinions, according to which he deemed all religions to be equally good. The system of the old Jesuits was, not to shock oriental rites, but to conserve them, to introduce Christian dogmas among them, and to allow to their converts the retention of caste when they were Hindus, as well as various ceremonies. Of Moslem conversions, however, we possess very little evidence, whilst those effected among Hindus in Southern India were considerable, apart from those which took place under Government patronage in the Portuguese possessions; it must, however, be observed that the St. Thomas Christians of the south were not actual converts, but only induced to acknowledge the supremacy of the Pope, as will appear further on.

When Akbar established A.D. 1575, in the 19th year of his reign, at the Fathpūr Sikri prayer-house, which was in reality more like a debating club, where disputations by members of all known religions took place, Christian missionaries are not specially mentioned as having been present, although a sample of a dialogue, between a Musalmán and a Christian, held there is given in the *Dabestán*\*; but the following allusions are made

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\* Calcutta typographed edition of 1809 p. 199 and Transactions of the Bombay Literary Society, vol. I, p. 265 new and p. 251 old edition, in the "Notice respecting the religion introduced into India by the Emperor Akbar."

to clergymen, two years after the above mentioned date by Al-Badaoni in his *Muntakhab-ut-tovârikh* :—"Distinguished scholars "from Europe, called Padris—and their perfect Mujtahid who "can alter laws in obedience to the exigencies of the times, but "whose orders not even a king can transgress, is called Pápá—"brought the Gospel, demonstrated the doctrine of the Trinity, "established the truth of Christianity, and the emperor made "the religion of Jesus current, and ordered the Prince Morad "to take several lessons in it for good luck. Sheikh Abul-"Fazl was ordered to translate it [the Gospel?] and instead "of the *Bismillah* [with which every Moslem book commences] it contained the following verse,

"O Thou whose name Jesus Christ we call,

"Namely : O thou whose name is very kind, and very "beneficent. To which Sheikh Fayzi added the second hemistich :—

"Praise to thee ! Only one ! From us all !

"These accursed fellows [priests?] applied the description "and epithets of the accursed Antichrist to his Lordship the "best of prophets, the blessing of God be on him and upon "his family peace, in spite of the followers of Antichrist \*"

That father Montserrat, S. J., was giving lessons to the above mentioned second son of Akbar, is also stated by father Acquaviva, S. J., as will appear further on, although he calls him *Fahari*, which was probably a mere nickname of the Prince : the celebrated Italian traveller Pietro della Valle calls the second son of Akbar *Pehari* but states that his surname was *Murad*. †

No Muhammadan authors assert that Akbar actually intended to embrace Christianity at any period of his reign, although the missionaries appeared to be extremely sanguine on this point. He allowed Christian churches, Hindu temples and Zoroastrian Dookmas, that is to say, towers of silence to be built ‡ without however showing preference to any denomination in particular, except to the divine religion of Shah Akbar or "Din elâhi Akbar Shâhi," invented by himself. The public exhibitions of religious ceremonies by the missionaries appear to have been considered only as *tamashas* or shows ; for, Al-Badaoni says : "Also the ringing of Christian bells, the exhibition of the picture of the Trinity and the *Bulbulan* which is their place of amusement, together with all sorts of games and sports were set agoing, and the words

\* The Emperor Akbar's repudiation of Islâm, by E. Rehatsek, Bombay, 1866, p. 24. | † *Lettera prima da Surat, del 22 di marzo 1623.* § XI.

‡ The Emperor Akbar's repudiation of Islâm, p. 93.

*Infidelity was propagated\** embody the date; and matters came to such a pass after ten or twelve years, that the majority of scoundrels, such as Mirza Jání the governor of Tattah and other apostates, issued statements of their own hand-writing in the subjoined form:—

"I, A. B., who am the son of C. D., have with great pleasure and of my own free will, abjured the insincere and hypocritical religion of Islám which I have heard of, and seen practised by my fathers, have adopted the divine religion of Akbar, and have received the four degrees of loyalty, which consist in the dedication of property, life, honour, and religion." †

In the *Akbar-námah* written by the order of the Emperor and consisting of three folio volumes, Abul-Fazl states that malevolent persons had spread the rumour of the emperor's hatred to Islám and of his having become a Brahman, but that they were refuted and put to shame by certain Christian philosophers [Jesuits?] in a public disputation held for that purpose. The only passage in the whole *Akbar-námah* in which a temporary inclination of Akbar towards Christianity has been alluded to is as follows:— 'He conversed for some time on the religious information he had obtained from Christian priests, but it appeared after a short while, that their arguments had made no great impression upon his mind, so that he troubled himself no more with contemplations about ascetism, the allurements of poverty, and the despicableness of a worldly life.' ‡ This plain statement, of a most trustworthy and impartial author, naturally contradicts the hopeful assertions of the missionaries, and more especially of Padre Rodolfo Acquaviva, S. J., who spent nearly three years at Akbar's court and whose impressions we shall now proceed to give. In those times the Jesuits who visited the Moghul court, generally started from Goa, which port he accordingly left, and navigating to Surat performed the land-journey from that harbour to Fathpúr Sikri in forty-three days, arriving there on the 15th February 1580. Padre Rodolfo Acquaviva, S. J., was received with much distinction by the enlightened, glorious, and potent Akbar, to whom he presented the Gospels written in four languages and bound in seven volumes. Acquaviva was forthwith invited to hold

\* Ibidem p. 57 the value of the letters كفر شایع شد is A. H. 985 which makes A. D. 1577.

† Ibidem.

‡ Lucknow lithogr. ed. vol. III. p. 188 That the Jesuits spared no efforts to introduce their influence even into the Harem of Akbar, appears from the presence in it of *Signora Giuliana di Goa*, whom the R. C. Bishop of Agra calls in a letter, dated from that place, 20th August 1832, *Dottoressa* (See p. 312 of *Researches and Missionary labours*, &c., by the Rev. Joseph Wolf. London 1835).



public disputations with learned Muhammadans on the relative excellence of the Evangel and of the Korán, of Christ and of Muhammad, of the Christian Virgin and of the mother of Muhammad, of the Christian and Muhammadan paradise, and of the similar Articles of Faith in the two religions. Akbar is said to have hesitated in uncertainty on the merits of the two religions, but in order to obtain a better insight into the doctrines preached by Padre Rodolfo, he invited him to study the Persian language and to state his reasons, in the same ; and this the Padre is said to have acquired within the short space of three months so well, that he considered himself skilled enough to turn a great portion of the Gospels into Persian. It is added that Akbar was so much edified that he ordered a golden crucifix to be made, paid visits to the little chapel of the Jesuits in which he worshipped the Madonna, made arrangements to build churches and hospices for Christians, recommended one of his own sons to Padre Montserrat to teach him Portuguese, and himself held out hopes of becoming a Christian. These, however, soon disappeared for political reasons, and his former good disposition was changed, if not into open enmity and persecution, at least to entire indifference towards Christianity. He had demanded a clear demonstration of the mystery of the Holy Trinity, upon which he averred that the whole Christian religion is based ; “ or else,” said he, “ whom are we to believe ? The Brahmans swear that their religion is the true one ; so do the Moslems concerning theirs, and you with yours. How are we to know who are in error ? Whether all, or perhaps none of you ? ” He was inclined to believe that all religions were good, but that some tenets in one may be better than in others. It was ordained by heaven that we should all be in the dark and whilst each of us persuades himself that he has truth and reason on his side, let God be honoured in as many ways of adoration as there are religions in the world. On these points he was so firm and obstinate, that no other proofs except miracles could have changed his mind. For all that, however, Padre Rodolfo Acquaviva, S. J., did not abandon all hopes of effecting some good by persevering in his mission, as appears from a letter he addressed in 1582 to his uncle Padre Claudio Acquaviva who was in Italy. He states in that communication his reasons for remaining in the dominions of the Great Moghul as follows :—

- “ 1, Because, now the king gives us greater hopes than ever before ; he wants to know the law of God, and considers it with greater diligence than formerly, showing affection for it, although impediments are not wanting. He uses so much love and familiarity towards us, that it cannot be expressed.
- 2, Because we hope that the second son of the king, whose name

is Fahari, aged thirteen years, \* is learning Portuguese, and therewith also the doctrines of our religion which he loves, and that he will derive benefit from it, because he has a very good natural inclination and is very talented ; father Montserrat was his teacher, but now he is my pupil. 3. Because we have discovered a new nation of Gentiles called Bottan, who are well disposed people, and addicted to pious works. They are white men without any Muhammadans among them ; wherefore, we hope that if two Fathers, inspired with apostolical zeal can be found, a great harvest of yet other gentiles may be gathered in. 4. Because here we have an old man, the father of the king's secretary, who relies upon him in matters of the law ; this man has abandoned the world, appears to be extremely virtuous and is much addicted to the contemplation of divine things, wherefore he seems disposed to accept the light of the Faith. He is very friendly to us, desires to hear our law, and we have for that purpose been several times to his house, where we experienced much consolation. 5. Because we are in the real, and strictly so called, India ; this country is, as it were, a thoroughfare of the whole of it, as well as of many other parts of Asia ; and as the Society of Jesus has already obtained a footing here, and enjoys the benevolence of so great a king as well as of his sons, it does not seem proper to abandon it before trying all the means we possess for beginning the conversion of the mainland of India, which has hitherto been accomplished only on the coasts of the sea." †

Padre Rodolfo Acquaviva must have been sadly disappointed in his expectations, and considered all his hopes blasted when he saw *the divine religion of Akbar* proclaimed ; hence it is no wonder that he retired from the world during the last year of his sojourn at the court of the Grand Moghul, and was compelled, by the disgust he felt at the turn affairs had taken, to lead the solitary life of a penitent hermit or Fakir, until he at least obtained, with great difficulty, permission to return to Goa. The magnanimous Akbar wished to send the missionary away with gifts as tokens of his favour, but the only one Padre Rodolfo was anxious for, and would accept of, was the permission to take to Goa a Russian with his wife and two children as well as certain other persons who had for many years been kept in slavery at Pathpúr Sikri, and who had become so habituated to Muhammadanism, that they could be recognized as Christians only by their names, and by their recollections of their condition before they had fallen into captivity. The emperor presented these slaves, in spite of the strong opposition of his

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\* This was exactly the age of Prince Murad in 1582.

† *Missione al Gran Mogor* ; Damado Bartoli, S. J., p. 36-37.

own mother, to Padre Rodolfo Acquaviva, and they were the only treasures he conveyed from the Moghul empire to Goa.\* Only two months after his arrival in Goa, Padre Rodolfo sallied again forth to the adjoining district of Salcete in the company of other Jesuits, namely, the Padres Alfonso Pacheco, Antonio Franceschi, Pietro Berno, Francisco Aranhô, with the native converts Gonzalo Rodriguez and Domenico D'Aghier, for the purpose of *re-establishing Christianity*, but they succeeded only in arousing the wrath of the gentiles; for, whilst the Jesuits were making arrangements for building a Christian church on the ruins of a Hindu Temple, more than a thousand gentiles, bent on avenging their gods, rushed furiously upon the Jesuits with their followers and massacred them all on the 15th July 1583.

In the *Arquivo Portuguez Oriental* which contains various documents and also letters from the kings of Portugal to the viceroys of India as well as to other officials, the Emperor Akbar is mentioned several times by the name of Equebar, or simply Mogor, the Portuguese transcription for Moghul. He had sent an ambassador to Goa during the incumbency of the viceroy, D. Duarte de Menezes—who governed from the 25th October 1584 till the 5th May 1588 when he died—to whom the king expresses his contentment in a letter dated the 10th January 1587 (Pasce, 3, letter No 23, para. xxii) for the good treatment accorded to the ambassador, and for having, before his departure, endeavoured to ascertain his intentions about ceding the fort and lands of Diu without giving him offence.

The next document containing the name of Akbar (*ibid* 2nd part, No. 206, para. xv) is dated Lisbon the 28th January 1596, and in it the king, referring to a letter of Martin d'Albuquerque says,—“He also tells me [in his letter] that Akbar had written him some letters, and among these one which he had sent by an Armenian Christian, who had given him suitable information about our power and prosperity; furthermore, that the said Akbar wanted some men of letters to be sent to him, and complained of the quick departure of the Jesuits despatched to him by Manoel de Sousa Coutinho when he was governor [and immediate successor of the above named D. Duarte]; that he [d'Albuquerque] had considered this matter with some prelates and monks, who were of opinion that two learned monks should be sent, and that the Provincial of the Society of Jesus forthwith offered his own ecclesiastics with the same zeal for the service of God and for mine, with which he had given the two others, as well as a very

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\* *Ibidem*, p. 42.

learned layman, and I recommend you to thank the said Provincial on my part, as well as for those of his order whom he has given to go to Ethiopia, and that you should favour these things, and keep me always informed about them." The next year, on the 5th February 1597, the king again writes to the viceroy (No. 239 para. xiii), and although he alludes only at the end of the paragraph to the conversion of the Mogor, it is worth inserting:—"He [Mathias d' Albuquerque] also tells me [in his letter] that the Moguls are in peaceable possession of the kingdom of Sind, where the Portuguese, who happen to travel there, are well treated, and that in the same kingdom a very large ship is being built with the intention thence to send it to the straits [of Bab-el-Mandeb?] which would bring on the total destruction of the customhouses of this estate. I recommend you to hinder the constructions of this ship, and I believe you will be able to do it with such attention and prudence, that no war may result in consequence of it with the Moguls who are yet on good terms with this estate, and the breaking out of new hostilities would be very troublesome, the more so as we are progressing in the conquest of Ceylon, and entertain hopes of the conversion of the Moghul [*i. e.*, the Emperor Akbar] which although slender and uncertain, God is nevertheless powerful enough to realise. This you must take into consideration when you treat with the kings of the Deccan about making a league against the said Moghul." In the same letter (para. xvii) the arrival of Padre Hieronymus, S. J. (about whom we shall have to say more) at the court of Akbar is announced according to his own account, and the king of Portugal writes:—"He [d'Albuquerque] also tells me [in his letter] that he had a letter from Jeronimo Xamel [corrected in a footnote to *Navier*] a friar of the Society [of Jesus] written at the court of Equebar [Akbar] in which he informs him, that after enduring many hardships in a land-journey of five months he had, with two friars in his company, arrived at the court of the Mogor [Akbar] who received them with much pomp, and that he himself, as well as the prince with his captains, expressed great admiration at the taking of the Morro [a fort opposite to Chaul which the Portuguese had conquered from the Dekkan Moslems] and that he asked them to make haste to learn the Persian language, because he desired to speak to them without interpreters on the reasons which had induced him to invite them to his court. I recommend you to encourage and to aid these friars of the Society [of Jesus] to make progress in the mission for which they have been sent, and to attain the good result expected therefrom, according to a letter, a copy whereof, addressed to the friars of the Society in this kingdom [of Portugal] and arrived in the ship St.

Pantaleon, I have seen, and in which their journey is very particularly described."

It appears that in 1598 the hopes about Akbar's conversion had become slender ; in a letter dated the 15th January of that year, the king, however, informs the Viceroy of Portuguese India, that Mathias d' Albuquerque assures him of the confidence the Jesuits enjoy with Akbar, advising him in all matters, and entirely living up to the fulfilment of their obligations in the service of God and of the king of Portugal, and the utility to the latter of the Jesuits at the court of Akbar as political spies, may be gathered from his desire that some of them should always reside at that court ; accordingly he writes in a letter to the Viceroy (No. 364, para. XVI) in the above named year :—" You are also to give me an account how the two friars of the Society [of Jesus] are at the court of the Moghul, and although they have hitherto not produced any fruit [of conversion] their aid is necessary in continuing to give us every information about the king [Akbar] as they now do. This I approve of, for the reasons you adduce, and I have also other information in conformity with them. It is chiefly to be taken into consideration that the fruit, which has hitherto not shown itself, may appear whenever God pleaseth, and when human hopes are perhaps the smallest. Accordingly you are to make arrangements with the Provincial of the Society [of Jesus] that in case these friars should die, or be necessarily recalled, for sending others, so that some may always be there as now."

Like many others who afterwards went to other parts, also Padre Matteo Ricci, S. J., landed at Goa in 1578 with two other Italian priests, Michele Ruggeri and Pasio, but they did not go to the court of Akbar, but proceeded to Canton in China. Padre Benedict Goes, S. J., lived however for a long time at the court of Akbar, whom he accompanied in 1598 together with Padre Hieronymus Xavier to Kashmir, but departed in 1602 to China, not however by way of Kashmir as he had first intended, but *via* Peshawur through Badakhshán, Kashgar, Yarkand and reaching the frontiers of China (after a journey of three years) where death overtook him at So-tcheou.\* Padre Hieronymus Xavier appears to have passed at the court of Akbar, in

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\* The name of no priest occurs in the whole of the *Akbar-námah* except that of Padre Fermiún فرمائیون whose arrival and introduction at court is mentioned in vol III. p. 412. He is also said to have been very learned, but arrived however in 1589, and with him numerous other Feringhis as well as Armenians. The arrival of several Padres from Goa in 1594 is also mentioned on p. 412 but only in one line.

conformity with the Jesuit policy of the times,\* not only for a priest but also for a philosopher, as may be seen from the following prayer composed by him in Persian in 1596 at the court of the emperor but dedicated to his eldest son. The style of it is exactly that used by Moslem philosophers and Sufis, except the last phrase, which may perhaps be interpreted as the expression of a Christian sentiment. It is as follows:—

“Pardon O Lord, should I do what is displeasing in thy sight, by obtruding myself into the things and properties which belong to thee. Men plunge into the deep ocean, there to fetch pearls and other precious things. Therefore, O sea of perfections, suffer me to sink deep into thee and thence to enrich myself and brethren, who are thy servants; and by describing thy greatness and mercies, to help them. For, although I am unworthy to speak to thee, thou art worthy that all should endeavour to praise thee; since thou art possessed of infinite goodness and beauty. O Lord my God, this will be fruitless, unless thou assist both me and them with thy infinite mercy. Give unto us, O Lord, the key of the knowledge of thee. Grant to our understandings the power of comprehending thy greatness, that thy majesty and grace may not be to us an occasion of stumbling, and hence remain unblest by thy many favours. Let not that come upon us what happens to the bat, which is blinded by the light of the sun; and which in the midst of light remains in darkness. Give us enlightened and far discerning eyes, that we may believe in that greatness of which thou art, and which for our sakes thou hast revealed. And that by these words and actions we may so follow thee, that in paradise we may see thy Godhead in the mirror of light, which in this world, we can only contemplate by faith as in a glass [darkly]. Amen.” The life of Christ written by this Padre in Persian is according to Bohlen† said to be still extant, and it would be interesting to ascertain what style he adopted in the treatment of this subject; we shall, however, further on in the paragraph on “Missionaries” in “Southern India,” give the opinion of Lacroze on the compositions of Hieronymus Xavier, who died in 1617 at Goa as the archbishop elect of Cranganore, to which see he had been appointed by Philip III King of Spain and Portugal. What a political rôle this Jesuit played up to two years before his death, namely, in 1615, appears from a treaty of peace concluded during it

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\* Les Jésuits les Machiavels du clergé, avaient introduit dans les missions un système de propagande tout à fait nouveau; ils négligeaient les formes, pour atteindre le but, &c. (Matériaux pour servir, &c. Par A. de Gubernatis, Paris 1876, p. 407.)

† Das alte Indien B. I. S. 104.

between the Emperor Jehangir and the Portuguese, to which the signature of *Jeronimo Xavier* is appended as a commissioner of the former.\* It being also a matter of some interest to know what manuscripts of this Jesuit are preserved in the British Museum, the catalogue of which is a *parc arvis* in India, we shall afterwards insert a list of them, as it does not exceed four in number.

Even according to Muhammadan authors Akbar was well acquainted with the tenets of the Christian religion, but Ritter† supposes him to have been also aware of the horrors of the Holy Inquisition at Goa, and pays him the compliment of having been far too sensible to attribute them to the Christian religion; but it is more likely that if perchance any rumours of the cruelties committed in the name of religion had ever been brought to his notice, the Jesuits were at hand with their explanations to counteract all unfavourable impressions, as besides them scarcely any other Christians existed in the country, and the European artificers in the employ of the court or artillery service were, by their isolation, completely debarred from giving or receiving even ordinary news; churches were indeed built in various towns, which did not contain a single Christian inhabitant, although the missionary reports of those times outdid even the writings of the Hindus themselves in their accounts about miracles and conversions.‡ But whatever impostures may have been practiced by other Jesuits, they were far surpassed by those of Padre Roberto de' Nobili, who arrived about one year after the death of Akbar, namely, in 1606 at Madhura in Southern India. Being a talented and zealous priest, Padre Roberto soon learnt not only Tamil and Sanskrit, but forged even a new Veda and Puranas, representing himself to be in communication with the god Brahma and to be a Brahman of a more ancient race than those of India; his rogueries were imitated by the missionaries who accompanied him, and resulted in the production of various spurious writings, one of which is the famous *Ezur Vadam*.

The most scathing judgment of the conduct of the Jesuit Nobili and of his companions, was pronounced by the Capuchin father Norberto, an apostolic missionary and procurator of the missions at the Papal Court of Rome; it was embodied by him in two volumes of historical memoirs, which he presented in 1744 to Pope Benedict XIV on the missions of the East Indies:—

"The missionaries of the company [of Jesus]" writes Padre

\* Chronista de Tisuary vol. 3, Nova Goa, 1868, p. 271.

† Ritter's *Feldkunde von Asien*, B. IV. Abth. I. Indische Welt, p. 627.

‡ Bohlen *ut supra*.

Norberto who succeeded Xavier \* in India, very quickly strayed from the path which that apostle and the first preachers had smoothed in those idolatrous countries. Under the specious pretext of more easily converting the nations, they began to assimilate and to unite the usages of paganism to those of Christianity. The Reverend father Nobili was the first who gave this spectacle to the world about the year 1606. That famous missionary appeared in the kingdom of Madhura in the guise of a Brahman, imagining that this dress which distinguishes the priests of the idols, and insures them the veneration of the people, would impart more lustre to the authority of the evangelical truth, which he intended to preach to those nations. In this manner he pretended to subdue the arrogance of the Brahmans, by making himself their equal. The undertaking was not an easy one, considering that he was to pass for a descendant of the divine race of the god Brahma, which object could not be attained without other stratagems, besides simple deceit. It became necessary against Christian and apostolic humility to maintain with pompous show, pretensions of equality with the highest nobility of the land, as well as to manifest supreme contempt towards all who were not descendants of the gods, to conform to the rigid abstinence of the Brahmans, and to observe all the usages practised by them, onerous or ridiculous as they were. Similar difficulties would have been considered insuperable by any other man, but they served only to inflame the zeal of Padre Roberto. The people, glad to receive the new Brahman, soon began to despise the Franciscans whose dress, simple and unostentatious mode of life, could flatter neither feelings of vanity nor of superstition. These fathers had already, since several years, a Church at Madhura, where they laboured successfully in that vineyard of the Lord, which they were compelled to abandon after the arrival of the Jesuits. They found themselves soon compelled to leave the field to the new-comers, who knew much better how to accommodate themselves to the tastes of the Hindus."

When the news of these stratagems arrived in Rome, they were condemned on the authority of Bellarmino who had declared :—*Evangelium Christi non eget coloribus et simulationibus ; et melius quidem est ut Brahmani non convertantur ad fidem, quam ut Christiani non libere et sincere Evangelium pradicent.* But the learned Roberto Nobili, † who only imitated

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\* Francis Xavier arrived in Goa on the 6th May 1542, went thence in 1545 to Malacca, returned to Goa in 1548, embarked for Japan in 1549, and died on the 2nd December 1552.

† Müllbauer in the History of Catholic Missions in India, and after him Prof. Max Müller, stated in his first series of Lectures on the Science of



in India the apostolical system introduced a few years ago in China by Padre Matteo Ricci, cared very little for this condemnation ; nor did his companions or successors.

In 1623 the vexed subject of Hindu questions was finally disposed of by Pope Gregory XV, who issued a *Constitution*, according to which Brahmans were, after their conversion to Christianity, allowed to retain their sacred thread, the use of ablutions and of Sandal, on the condition however that the thread should not be given to such Brahmans by their own priests in their temples, with their prayers, rites, or sacrifices, but simply by a Catholic priest ; that the string composed of three threads should be worn by converted Brahmans in honour of the Christian Trinity and as a sign of their nobility, and that at the same time the converted Hindus of noble descent, should not despise those who are born of low estate. This document of the Pope is of singular importance by the knowledge displayed in it of the minute ceremonies of the Brahmans when they are invested with the sacred thread, a knowledge which had reached Rome assuredly through the Jesuit missionaries and perhaps through Padre Nobili himself ; wherefore the publication of the *Constitution* in India, gave rise to new and more lively remonstrances sent by the Franciscans to Rome. Not merely Nobili, but also other missionaries who had gone to India for the purpose of converting the Hindus, ended by being themselves converted to the disciplinary practices of the Brahmans as to dress, food, drink, and other usages. Thus they became farther removed from Roman Catholicism than many heretic Christian sects of Europe which had been condemned and fiercely persecuted by the tribunal of the Holy Inquisition.\*

In the above mentioned year, namely, in 1623 when the celebrated Italian traveller Pietro della Valle was in Goa, he found it already considerably declining in wealth and population, chiefly on account of the horrors of the Holy Inquisition and the appearance of the English, who had begun to trade and allowed complete religious liberty in their factories to all. He mentions however the island of Salcete, near Goa, as containing many handsome towns, and about one-third of the island as belonging entirely to the Jesuits, who were not only the spiritual fathers of the people and administered all the parishes, but the inhabitants considered themselves more as the vassals of the Jesuits than of the king of Portugal. The island of Bardez,

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Language that Roberto de' Nobili had read the *Skandapurana*, the *Kadam-purā* and the difficult *Agastambā Sūtras* from which he made quotations, and which he had probably all translated. The papers of Nobili will undoubtedly one day see the light and be published, when his attainments, as well as his solemn impostures, will become better known.

\* *Storia dei viaggiatori Italiani*, &c., A. Gubernatis. Livorno 1875: p. 32.

contiguous to that of Goa, was under the Government of the Franciscans, and it may be said that not only the best, but also the largest portions of Portuguese India were in the hands of monastic orders. In the city of Goa he found Augustinians, Dominicans, Franciscans, barefooted Carmelites, Jesuits with many convents and also numbers of secular priests. With the concurrence of the other monastic orders the Jesuits performed the most exaggerated spectacles in consequence of the joy felt at the canonisation of St. Ignatius Loyola and Francis Xavier; there were in these processions, chariots with clouds, Pamas blowing trumpets, walking pyramids; a strange and grotesque cavalcade. In the public square a theatrical representation of the life of Xavier till his ascension to heaven took place, which may be called either a comedy or a tragedy; in the nocturnal rejoicings the noblemen of Goa figured, partly in chariots and partly on horse back, dressed in the costumes of ancient Roman warriors, with emblems on their breasts according to the fashion of mediæval cavaliers.\*

Father Stephens the English Jesuit died four years before the arrival of Pietro della Valle, else he would not have failed to mention him; but some account of him is given in the *Indian Antiquary*, 1878, vol. vii, p. 117.

Jehangir the eldest son and successor of Akbar was just as well known for his religious indifference and toleration of all sects as his father. If we are however to believe Bernier,† the Jesuit fathers entertained great hopes also of Jehangir's conversion. He is said to have allowed two of his own nephews to embrace the Christian religion, and also a certain Mirza Zulqarnin who had been brought up in the seraglio and been circumcised; on the pretence that he was born of Christian parents and the son of the wife of a rich Armenian, brought to Jehangir in the seraglio. The Jesuits also stated, that, in order to begin to countenance the Christian religion in good earnest, the emperor put on European clothes, and intended to dress the whole court in that fashion, but having consulted one of

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\* *Lettera VII da Goa.—Della vita e delle opere di Pietro della Valle il pellegrino Roma, 1780, p. 92.* In India he found numerous Italian Jesuits; for instance, in Daman Antonio Albertino, in Bassein Paolo Giovio, in Goa Antonio Schipiano, Vincenzo Sorientino, Cristoforo Boro (called Brono so as not to offend the Portuguese by the word *bora* which has a bad meaning in their language) Giuliano Baldinotti, Alessandro Leni, Giacinto Franceschi, Lazzio Alberti, Flaminio Calo, Battolomeo Fontebuoni, and others. *Ibid.*, p. 96. He also observes on p. 586 that the Jesuit-church in Chaul, Daman, Bassein and almost in every other place where those fathers had one in India, bore the name of St. Paul, and that they themselves were more known by the name of Paulists than Jesuits.

† *The History of the late revolution of the Great Mogul. Englished out of the French.* London 1671. Tome II, p. 84 seq.

his chief Omras on the subject, received a very grave reply, whercon he turned the whole affair into a joke and abandoned the project. These fathers asserted furthermore, that when Jehangir was on the point of death, he ordered them to be brought into his presence to make him a Christian, but that they were not called! Bernier does not give the names of those Jesuits, he himself having arrived only after the death of Jehangir in the latter part of the reign of his son Shah Jehán, and remained in India a few years during that of Aurangzib, namely, till 1656. Also the following anecdote he had from the son of an officer of Jehangir:—There was at the court a certain father from Florence, of small stature but fiery temper, and therefore surnamed *Atesh* (fire). Being one day in a debauch, Jehangir called for father Atesh, ordering him to say every thing he could, in favour of the law of Christ and against that of Muhammad, but after that to jump into a pit of fire with a Gospel under his arm, whilst a Mullah would do the same with a Qurán under his, and that the emperor would embrace the law of him who came out of the fire unscathed. The rueful countenances of the Mullahs altogether astonished Jehangir, and the compassion he entertained for the Florentine father, who had accepted the condition, induced him not to insist upon the ordeal. Whether this story be true or not, says Bernier, it is certain that whilst Jehangir lived, the fathers were respected and honoured at his court, and that they conceived great hopes of the advancement of Christianity in those parts; since that time they have had no great cause to hope for much, unless, perhaps, from the familiarity which our father Buzé had with Dara.\*

It is curious that already in 1581 during the reign of the Emperor Akbar an ordeal by fire was to have taken place, in which case, however, the European priest, whose name is not given, refused to submit to it. According to Al-Badaoni† the emperor appointed Sheikh Jamál-uddin Bakhtiár to dispute with European priests in the presence of the wise men and the divines of the period. The Sheikh ordered a great fire to be kindled and said:—"I shall leap into it to prove my assertions, and he who comes out unscathed, will have the truth on his side." When everything was ready he took hold of the European and exclaimed:—"Come in the name of Allah!" But none of the latter [*i. e.*, the Europeans] would

\* Dara was shamefully killed by order of his own brother the Emperor Aurangzib; one of the accusations against him being that he had become an infidel.—*The History of the late revolution of the Great Mogul. Englished out of the French.* London 1671. Tome II. p. 86-87.

† *Muntakhab-ut-Towárikh* Bibl. Indica, Calcutta 1864 5. p. 777 seq. Padre Rodolf, also refused to jump into the fire, *Missioni al gran Mogor* p. 34.

come. The Emperor was displeased and sent them in the company of some Fakirs to Bakar, where they died.

On the 11th October 1631 the Christian settlement of Bunder Hugly was destroyed during the reign of Shah Jehán, the son of Jehangir and grandson of Akbar,\* after a siege of some months. At Chittagong there was a colony of Portuguese pirates who not only sailed along the coasts but entered all the rivers, and also the Ganges. "These were the pirates" says Bernier† "that made Shah Jehán, who was a more zealous Muhammadan than his father Jehangir, to express at last his passion, not only against the Reverend Fathers the Jesuits, missionaries of Agra, in that he caused to be pulled down the best part of a very fair and large church that had been built, as well as that of Lahore by the favour of Jehangir, who, as I said, did not hate Christianity; and upon which there stood a great steeple with a great bell in it, whose sound might be heard over all the town; not only I say against those Jesuits, but also against the Christians of Ongouli [Hugly] for being impatient to see them connive at the pirates to make the name of Franguis [Europeans] formidable and to fill their houses with slaves that were his own subjects; he wasted and utterly ruined them, after he had both with fair words and menaces drawn from them as much money as he could, and because they were indiscreetly obstinate in refusing what he demanded of them, he besieged them and caused them all to be brought to Agra, even their very children, their priests and friars. This was a misery and desolation not to be paralleled; a kind of Babylonian transmigration. There they were all made slaves. The handsome women were shut up in the seraglio; the old women and others were distributed among diverse Omrahs. The young lads were circumcised and made pages; and men of age renounced for the most part their Faith, either terrified by the threatenings they heard daily, that they should be trampled upon by elephants, or drawn away by fair promises. It is true that there were some of those friars that persisted, and that the missionaries of Agra, who, notwithstanding all their unhappiness remained in their houses, found means afterwards, partly by friends, partly by money, to get many of them away, and to have them conveyed to Goa, and to other places belonging to the Portuguese." In connection with this matter Bernier also states, that "the above mentioned pirates seized at the same time the island of Sondira [Sunderbunds?] an advantageous post to command a part of the mouth of the Ganges; on which isle a certain Augustine friar, a very famous man, acted

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\* This event is described at large in the "Badshah Namah" Fasc. V. Bibi. Indica, Calcutta, 1867.

| † P. 124.

the king for many years, having taken a course, God knows how, to rid himself of the Commander of that place." \*

Speaking of his own time, Bernier says—"In Agra the Rev. Fathers, the Jesuits, have a church and a college where in private they teach the children of some twenty-five or thirty Christian families—I know not how gathered and settled there—the Christian doctrine. It was Akbar who, in time of the great power of the Portuguese, called them and gave them a pension for their subsistence, permitting them to build churches in the capital cities of Agra and Lahore; and his son Jehangir favoured them yet more. But Shah Jehán, son of Jehangir and father of Aurungzib now reigning, took from them their pension, caused their church at Lahore to be pulled down, and the greatest part of that in Agra, &c."

Now we take leave of Bernier by giving in conclusion his views on missions, which are as follows :—"Certainly I cannot but exceedingly approve of missions, and the good missionaries, especially our Capuchins and Jesuits, and some others of our neighbourhood, because they give meek instructions, without that indiscreet zeal and transport which is expressed by some others, who would do better to keep themselves close in their convents, and not come hither and give us a masquerade of our religion; by doing so, and by their ignorance, jealousy, looseness, abuse of their authority and character, they become a stumbling block to the Law of Jesus Christ."

As to Mandelslo, who was in India in 1638, he takes no notice whatever of Christian missions, but having been in Goa, he gives an account of the hospitalities he enjoyed at the hands of the Jesuit fathers. \* The case is different with M. de Thevenot, who travelled in this country in 1666 and makes several allusions to priests; he states that the Jesuits who had been invited to Agra by Akbar, still attended there to spiritual matters and to the instruction of youth, but does not appear to be quite sure whether twenty-five Christian families actually existed there. † Of other monastic orders he mentions only the Augustinians, who had a convent on the banks of the Ganges in Dacca, and the Capuchins at Surat, the superior of which, father Ambroise enjoyed considerable influence with the governor. ‡

It is certain that when the Portuguese began to take cognizance of the dogmas and discipline of the ancient churches of Malabar, they found that Nestorianism was firmly established, and that no records of any other doctrines having ever been

Missionaries in South-  
ern India.

\* *Calcutta Review*, Number CXLIX. p. 89, seq. (1882.)

† *Ibidem*, p. 96.

‡ *Ibid*, p. 94.

taught in them were in existence ; accordingly efforts to bring the people under obedience to the Pope were made, but in vain. Devoutly attached to their ancient and simple doctrines, the Syrian Christians indignantly rejected for some time all others.

By a rescript of Pope Pius V, dated 15th January 1567, Don George, the archbishop of Goa, was ordered to make exact inquiry into the conduct and doctrine of Mar Joseph, the Nestorian prelate of the Malabar Christians, and in case he should be found guilty of error, to seize him and to send him forthwith to Rome. This was easily done, because Mar Joseph suspected nothing ; he was captured, embarked in Cochin, deported to Portugal, and thence to Rome, where he ended his days in prison. \*

In 1599 Archbishop Menezes, whose efforts were seconded by the Jesuits, endeavoured to induce the Malabar churches to pay allegiance to the Pope, but brought on long and grievous disturbances ; he is, during the same year, said to have burnt the sacred scriptures of the Syrian Christians at the synod of Diamper ; which assertion was likewise made by Dr. Claudius Buchanan in his *Christian Researches in Asia*, London 1811, p. 157, seq. ; but the Rev. Denis L. Cotincau de Kloguen denies that Archbishop Menezes used any violence at all. † The Bulls which Pope Clement VIII granted in favour of Padre Francis Roz, S.J. arrived in this country in 1601 to the great contentment of Menezes, who forthwith consecrated this Jesuit to be the Bishop of the St. Thomas Christians. In 1605 Pope Paul V translated the episcopal see from Angamale to Cranganore, of which place father Roz, S.J. became the first Roman Catholic bishop. There is reason to believe that this prelate died in 1617, because we know for a certainty that Hieronymus Xavier, S.J. who was to have succeeded him, likewise departed this life during the same year, but in Goa.

If, however, the missionaries who insisted on the supremacy of the Pope could find no favour with the Nestorian Christians, they ingratiated themselves with some of the native princes of the country ; and in 1608 when Pyrard de Laval was in Calicut, he found there two Jesuit fathers, who were in such high favour with the Hindu king, that he allowed them to build a church, gave them salaries, and they preached openly ; they had even permission to convert the people to Christianity. ‡

We may in this place insert the opinion of Lacroze § on the literary compositions of Hieronymus Xavier, who had lived at the court of Akbar as well as of Jehangir his successor, and

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\* Lacroze, *Hist. du Christianisme des Indes*, 1758, p. 93, seq.

† *Bosquetto historico de Goa*, p. 82.

‡ *Viagem*, T. I. p. 344, Portuguese translation of his work.

§ *Hist. du Christ, des Indes*, T. II. p. 77-78.

whose philosophical prayer, purporting to have been published in 1596, we have already quoted in this article. Lacroze says :— " Hieronymus Xavier is considered to have been the author of two works written in the Persian language, the first of which bears the title of 'The history of our Lord Jésus Christ' and the second narrates 'The life and martyrdom of the apostle Peter.' These two works, which are equally fabulous, happened to fall in manuscript into the hands of Louis de Dieu, a celebrated Professor of oriental languages at the university of Leyden, who printed them with a Latin translation and notes, defending the sacred text against the enormous falsifications of the Jesuit ; accordingly the notes have been condemned by the Roman censors. The work itself is a monstrous conglomération of fictions and gross fables, added to, and not seldom substituted for, the words of the holy evangelists. After all, however, Hieronymus Xavier is not himself the author of this kind of Qurán, except as far as its profanities and superstitions are concerned. He had composed it in Portuguese, and the Persian version which Alegambe and other Jesuits do him the honour of attributing to him, was by no means written by himself. Its author was an Indian Muhammadan of Lahore, whose name was Abdel Senarim [sic] Kaseu, as Xavier himself avows, in his first work on p. 586."

As promised above, we shall here give a brief notice of the four manuscripts of Padre Geronimo Xavier preserved in the British Museum,\* as it is not impossible that in India also the writings of this Jesuit may still be in existence.

*Harl.* 5,455 foll. 215. Written in plain Nestalik, apparently in India ; dated Ramazan A. H. 1027 (A. D. 1618). This is the *مرآت القديس* or "Mirror of Holiness" a life of Christ, which has been edited with a Latin translation and notes, conceived in no friendly spirit by Louis de Dieu, as already observed above. The Latin title is "Historia Christi Persice, &c." Lugduni, Batav. 1639 In the preface of this work, dated Agra A. D. 1632, the author states that he wrote it by desire of the Emperor Akbar, after having been engaged for seven or eight years in the study of the Persian language. He says at the end that he was assisted in the Persian translation by Maulana Abd-us-Sattár B. Kasém Lahauri, and that it was completed in Agra in the same year ; the 47th of Akbar's reign. It is divided into four chapters. The name *داستان مسیح* by which this work is commonly known, occurs as a running title at the top of every other page of this manuscript.

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\* Catalogue of the Persian Manuscripts in the British Museum. By Charles Rieu, Ph. D. London 1879, p. 2-4.

*Add.* 16,878 foll. 74. An imperfect copy of the same work ; written in Nestalik, apparently in India, in the 18th century.

*Harl.* 5,478 foll. 525. Written partly in Nestalik, partly in Shikestah Amiz ; dated Jumada I the 6th year of the reign (probably that of Jehangir ; hence A. H. 1019 A. D. 1610.)

The title is *آئینه حق نما* "The Truth-reflecting Mirror," in which the doctrines and mysteries of Christianity are fully expounded. It is stated in the heading that the author, Padre Geronimo Xavier, a member of the Society of Jesus, came from Goa to Lahore, where he was presented at court A. D. 1596. In the preface which follows, the author states that he had enjoyed, twelve years previously, the privilege of kissing the imperial threshold, and that he now dedicated this work to Jehangir as a slight return for past favours, and a humble offering on the occasion of his accession. The work is written in the form of a dialogue, between the Padre and a philosopher or freethinker (Hakim) whom he purports to have met at court ; while in some parts a Mulla intervenes as a third interlocutor. The work was finished as stated, at the end of A. D. 1609.

*Add.* 23,584 foll. 55. *منتخب آئینه حق نما*. An abridgement of the preceding work. In a long preface addressed to Jehangir,

the author, whose name is here written *شیر و نیموسو ایر* mentions his previous work *Amah-i hakk numâ*, or "the Truth-reflecting Mirror," to which he had devoted so many years, and says, that finding the Emperor's time taken up by the cares of Government, he extracted its substance for his use, and condensed it in the present *Muntahab* or "Selection." This is the work which found its way to Persia, and there called forth the reply *Miskal-i-safa* *مصقل مغا در تجاویز آئینه حق نما* "The Clean-polisher, for the Brightening of the Truth-reflecting Mirror." This in its turn elicited a reply before 1628, and another *Apologia pro Christiana Religione*, Rome 1631.

Brito, the companion of Hieronymus Xavier in the mission, occupied the Archiepiscopal seat during seventeen years, and was succeeded by Don Francis Garzia, S. J. who took possession of the see in 1634. Under this prelate the Syrian churches again cast off their allegiance to the Roman Catholic faith and elected, to the great disgust of the Jesuits and of the Curia of Rome, one of their own priests, an archdeacon, to be their bishop. This happened a little before the year 1655, and the first news of the defection were conveyed to Rome in the beginning of the pontificate of Alexander VII. This Pope, alarmed at an event, the consequences of which could easily be foreseen, determined promptly to put an end to the growing schism.



As a strong impression prevailed at Rome that the indiscretion and haughtiness of the Jesuits had ruined every thing, the determination was arrived at, that the bare-footed Carmelites, who had for several years been distinguishing themselves in the oriental missions, should remedy the evil. Accordingly the bare-footed Carmelite Vincent Marie was sent to Malabar with three other monks of his order by Pope Alexander VII in 1656, in order to put an end to the schism which had arisen between the native Christians and the Jesuit bishop.

Vincent Marie with his companions landed at Surat in 1656, and knowing that the Jesuits would be displeased at the invasion of their field of labour by other missionaries, the Carmelites did not venture to make their appearance at Cananore before the commencement of 1657, whence they journeyed by land to Calicut, and were determined to go to Cochin. When they arrived at Palur, the Cassanar, or priest, hid himself to avoid meeting them. When the interpreter of the missionaries had discovered and brought him to them, he was so reserved, that although he knew Portuguese very well, he conversed only through an interpreter with them. After a while, however, his coldness and suspicions having relaxed, he informed the Carmelites of the disposition of the people and the pretensions of the Archdeacon, advising them to seek an interview with him at Rapolino, where he usually resided. He advised them not to pass through the territories of the Portuguese, the allies of the Jesuits, and gave them to understand, that in that case the Archdeacon would receive them as persons descended from heaven, coming for the good of the country, and that the Archdeacon's return to the allegiance of the Pope would be followed by the whole nation. With these hopes the missionaries embarked for Rapolino, where they arrived after a sail of a day and a half.

As soon as they landed they sent their interpreter to the Archdeacon with a letter from the Cassanar, informing him of the arrival and the powers of these new missionaries. This piece of news caused him no joy as the Cassanar had predicted, but on the contrary he appeared to be much grieved thereat. Now conferences began, in which the Carmelites employed all their skill, according to the instructions they had received, to regain for the papal See a church which had after so many labours become as alienated therefrom, as it had been at first.

It would be difficult to give a detailed and correct statement of the reasons which had caused the schism, because the Jesuits were too powerful to allow the Carmelite Vincent Marie to mention in the book he published, anything disadvantageous to them, whilst they themselves would naturally not injure their own interests by confessing their own mistakes. All that we can gather is, that according to Vincent Marie

the government of the Jesuit prelates had lasted too long ; that the archdeacon feared he would lose the privileges enjoyed by his predecessors, and lastly that the extreme severity of Don Francis Garzia, S. J. and the hankering of some Cassanarás for their ancient Nestorianism had severed the union brought about by Don Alexis de Menezes, which had already subsisted for almost fifty years.

Another episode in the schism was, that the Coptic patriarch who resides at Cairo in Egypt, sent out at the invitation of the Malabar Christians, a bishop of the name of Attala, but when he arrived at Suat, the Capuchin missionaries of that place informed the Holy Inquisition of Goa of this circumstance, and he was made prisoner. The chiefs of the Syrian Christians assembled at Diamper, to devise means for delivering their new prelate from the clutches of the Sacred Tribunal. Some appeared to be in favour of a reconciliation with the Jesuit bishop, and invited him to pay a visit to their assembly. It was a little too presumptuous on the part of these simple minded Christians to attempt to decoy a prelate belonging to the most astute society which had ever existed on the face of the earth ; and it was but natural that Don Francis Garzia could not be duped by their invitation. He discovered their intention of seizing his person, and retaining him as a hostage until Attala could be extricated from the hands of the Jesuits of the Inquisition.

The Hindu Christians then determined to deliver their prelate by force of arms, and proceeded with their archdeacon and priests to Cochin where Attala was kept prisoner, but the gates of the town were closed against them and the walls bristled with artillery. It is certain from the testimony of Vincent himself, that Attala was packed off to Goa, where he died condemned as a heretic by the Holy Inquisition. Having thus lost their bishop, the people again assembled, swore upon the Gospels no longer to acknowledge the authority of the Jesuit prelate, but to obey in everything their own Archdeacon, who was now consecrated bishop by twelve priests selected for that ceremony.

The Carmelites were much embarrassed on witnessing these disorders, which it was all the more difficult for them to remedy, because the Jesuits, jealous of their former domination, spurned all projects of union from which they might be excluded, resolved as they were, rather to loose everything than that the diocese should fall into any other hands than their own.

The maxim *divide et impera* has often yielded golden fruits to those who applied it with skill, and the Jesuit fathers proved to be no mean adepts in that policy. They had their adherents, the archdeacon his, and the Carmelites theirs ; in 1657 the

latter succeeded in an assembly held at Mutane, to persuade the deputies of twenty churches to swear allegiance to the Pope. It was not likely that simple Hindu Christians could long resist the arguments and artifices employed by learned, zealous, and sometimes even unscrupulous European priests, to induce them to acknowledge the supremacy of the sovereign pontiff of the Roman Catholic church; but the union was after all long delayed on account of the rivalry and discord which divided the Carmelites and the Jesuits, who however concealed their intentions of dominion under the garb of Machiavellism, a weapon which they wielded with consummate tact, and always found successful. Also Don Francis Garzia, S. J., the archbishop of Cranganore who had become detestable to the Syrian Christians, and was a stumbling block to the union, died in 1659.

Desirous of pleasing the people, who entertained great veneration for the sacred tongue of their church, the Jesuits had established a college at Vaipicota for the study of the Syriac language, in the vicinity of Cranganore, and Bartoli\* states the reason thus:—"Our fathers have found it a useless labour to endeavour to convert the St. Thomas Christians, to unite them to the church, and to subject them to the allegiance of the Pope, because they would not hear of any other language except the Chaldaic, which they use in the sacrifice of the mass." In course of time, however, the teaching of the Syriac language was found to be too expensive. It was abandoned, and Latin substituted, to accustom the priests to the use of it. Thus most of the Syrian churches to whom the very existence of the Pope appears to have been totally unknown before the advent of the Jesuits among them, at last acknowledged his supremacy over all Christendom, and paid him allegiance.

In 1693 father John Brito, S. J. was beheaded in Madura—after baptizing not less than eight thousand catechumenes, during the fifteen months he had spent among the Maravas—for converting a prince named Terladeven, whom he induced to retain only one wife instead of five. A discarded lady, the niece of Ranganadadeven, sovereign prince of the Maravas, implored justice from her uncle, and the missionary was slain. This statement occurs in an exaggerated account of the so-called persecutions suffered by the Jesuits in Madura,† and consists of a long letter of father Lainez on the just-mentioned martyrdom of father Brito; another of father Martin beginning with an allusion to the apostacy of three catechists and describing the honours received by father Bouchet, S. J.

\* Rome, 1667, 3rd edition, p. 472. Apud Lacroze t. II. p. 97.

† From p. 365 to p. 419 in the *Choix des lettres édifiantes*. t. IV.

at the hands of the prince regent Talavery; and the last by father L<sup>e</sup> Gac, S. J., mentioning some slight persecutions, but also that twelve thousand Hindus had been converted. Besides the above named date, no other occurs in the whole "Tableaux des Persecutions," but as at the end of that florid production, the Lutheran mission established at Tranquebar by the king of Denmark, is mentioned, which we know to have been founded in 1706, some portions if not the whole of these "Tableux" must have been written after that year. The account terminates with the statement that the Lutherans had distributed New Testaments printed in the Malabar language, but that the Jesuit fathers had not failed to apply the antidote—literally *préservatif*—to the faithful, either by excluding from the communion those who had allowed themselves to be seduced, or by refuting the errors of the heretics in learned disputations.

Alfonso Albuquerque began already in 1510, when he conquered the town of Goa, to build a church, which was the only one till 1542, and became in course of time transformed into a

Missionaries in Portuguese India.

magnificent cathedral, admired to this day among the ruins of ancient Goa. Franciscan monks were the first spiritual pastors of Portuguese India, and after them the Jesuits, who arrived in 1542 under the leadership of St. Francis Xavier, and took possession of the *Santa Fé* seminary, which they transformed into a college, with the church of St. Paul. Then the Dominicans made their appearance in Malabar, but they established themselves as a community only in 1549, and the reformed Franciscans did the same in 1566; they were followed by the Augustinians who arrived at Goa in 1572, and at once founded their convent in the city. After these the Italian Carmelites arrived in India, who likewise established a convent in Goa, taking also charge of missions in Malabar and in the Mogul empire; they were however expelled from Portuguese India in 1707 because they refused to swear an oath of allegiance to the King of Portugal. Their church and monastery were taken by the fathers of St. Felipe Nery, or the Congregation of the Oratory, which had in 1682 established itself in the island of Goa. The Theatines, or regular clerics of St. Cactan, had established their monastery in the capital of Portuguese India in 1646, the Hospitallers of João de Deus in 1681, and were for many years the directors of the hospitals of Portuguese India. The last monks who established themselves in this country were the Carmelites of the 3rd order; they arrived in 1750. The convent of nuns in the island of Goa was established in 1606, and dedicated to St. Monica of the order of St. Augustine.

India, with all the conquests of the Portuguese in Asia and in Africa, was first placed under the spiritual jurisdiction of the new bishop of Funchal and Arguim ; but in 1534 the bishopric of Goa was established by a bull of Pope Paul III, dated the 1st November, and all the Portuguese establishments became subject to it, from the Cape of Good Hope to the extreme east. At the request of king Sebastian, Goa was raised to an Archbishopric by a bull of Paul IV, dated the 4th February 1557, with two suffragan bishops ; namely, the bishop of Cochin, whose diocese began at Cranganore and embraced the coast of Coromandel as far as the mouth of the Ganges, and the bishop of Malacca whose diocese embraced the Malayan peninsula from Pegu as far as China, Java, Sumatra and the Moluccas. The diocese of Goa was restricted to the portion of India north of Cranganore, and to East Africa as far as the Cape of Good Hope. The bishopric of Meliapur, established in 1606, began at the Coromandel coast and ended in Pegu. The archbishopric of Cranganore established by a bull, dated the 3rd December 1609, in supersession of the bishopric of Angomale, established on the 4th August 1600, embraced the territory of India between Cananore and Vaipim, without any suffragans.

That the Jesuit fathers were not only zealous missionaries in Portuguese India, but also applied their spiritual authority to mundane affairs, is known well enough, and attested also by many valuable documents preserved in the *Arquivo Portuguez Oriental*. We shall accordingly content ourselves with only one quotation \* from a letter of the King of Portugal to the Viceroy of India, dated the 28th January 1596 :—" I possess special information that many friars of the society [of Jesus] interfere in India not only with the government and the administration of all affairs, but are also judges internally and externally between men, and that some of them have, against the order of the Provincial—who is considered to be a friar of virtue and prudence—given their secret permission to certain inhabitants of Chaul, that they may with a safe conscience resist the hasentar [Fazendár ?] of the custom house, and refrain from paying dues thereto, inasmuch as they had not given their consent, and called them a new tribute. This may have given cause to the pertinacity of the said inhabitants. It is said that they have done the same thing at Basscin and Tannah, with reference to those who plundered the ship of Melique, alleging as reasons, that the money and goods were none of my revenue, and might be considered as a set off against the losses they had all sustained in the war, without

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\* From No. 206, para. XXVII, Fascicolo III.

incurring the excommunications pronounced by the bishop of Cochin\* at the request of the solicitor of the crown, &c." The King of Portugal had in this manner been defrauded, not only of the booty taken in the just mentioned ship, but even of the artillery and ammunition taken in the Morro or fort of Chaul conquered from the Dekkani Musalmáns, and situated opposite to the Portuguese fort of that name.

From 1567 till 1606, five provincial councils were held at Goa, in which 316 decrees relating to the discipline of the church were issued. From 1606 the archbishop of Goa took the title of "Primate of the East." By a bull of Pope Gregory XIII, dated 13th December 1572, the right was granted to the bishops of Cochin to govern the archbishopric of Goa whenever the see became vacant, and by a bull of the pontiff Leo XII, dated the 12th December 1826, the same right was granted to the archbishop of Cranganore when the see of Cochin fell vacant, and to the bishop of Meliapúr, when that of Cranganore fell vacant.

The archbishops of Goa and their canons disturbed the peace of the estate on various occasions to such a degree, as to oblige the viceroys and governors to take various measures of repression against them, and to induce the higher authority of the Pope himself to obviate these excesses. Thus, for instance, in an apostolical brief from the supreme pontiff, dated the 10th March 1635, and communicated to the Viceroy of India in a royal letter dated the 27th of the same month and year, the said Viceroy was authorised to transfer the government of the diocese to the Inquisitor, whenever the chapter and canons offered any opposition. As we have already dealt in a former article with *The Holy Inquisition at Goa* from its establishment to its abolition, we may in this place content ourselves with adducing only two testimonies, of the highest authority, to show how turbulent and troublesome the monks became to the governors of Portuguese India:—In an official letter to the king, dated 15th November 1694, Count Villa Verde, the Viceroy of India expresses himself thus:—

"I may assure your majesty, that the greatest trouble which the Viceroys have here, is with friars; and all my attention being necessary for the political matters of the government, the friars are disturbing me in such a manner, that for them alone, all the time is not sufficient."

But even a few years before the above letter, namely, in December 1691, the governors of the interior of India wrote to the king as follows:—

"Sire:—Nothing gives so much trouble to those who govern this estate or live in it, than the continual disturbances raised by the monks who are in these parts; excepting only the

Dominicans and the fathers of the Society of Jesus,\* who alone live with that religious moderation which they are accustomed to observe. But the greatest and most insufferable inquietude, which can scarcely be appeased, is caused by the monks of St. Augustine, when they begin to contend with the Capuchins, Franciscans and Carmelites. This we state that your majesty may be pleased to get these friars admonished in bulls to them, *because although they ought to spend all their time in the conversion of infidels, they consume it by always living, in particular localities, where their convents more resemble barracks of soldiers than the abodes of monks.*" †

In 1760 one hundred twenty-seven fathers and brothers of the Society of Jesus were shipped to Portugal from India by the government, ‡ in 1761 their professed house of Bom Jesus was ceded to the novitiate of the island of Chorão, and their convent at Rachol to the Italian missionaries of St. Vincent de Paul in order to establish seminaries. These last named fathers having in their turn likewise been expelled from Portuguese India in 1790, for refusing to comply with some regulations contrary to their statutes, and which the archbishop of Goa had attempted to impose upon them, they were superseded in the duties of teaching, by Portuguese of the same religious order, from the convent Rillhafoles; and these again by clerics from the congregation of the Oratory.

After the conflagration in the house of Bom Jesus, the seminary attached to it ceased also to exist; and shortly afterwards the other two, of Chorão and Rachol, were united into one. The colleges and churches of St. Paul and of St. Roch which had likewise belonged to the Jesuits before their expulsion, fell into ruins when the fathers departed. As far as their connection with India is concerned, the present period resembles that between 1578 and 1643, when a great influx of Jesuits into this country took place, on account of the spreading of the reformation in England, France and Germany, which narrowed their sphere of action, and considerably diminished the numbers of the faithful. In recent times, when these fathers have been expelled by law from Portugal, Spain, Germany and France, they again turned their steps eastward, where they find ample fields of labour not only as missionaries, but also as accomplished, assiduous, painstaking and successful educationists, founding schools, colleges, orphanages, &c., wherever they establish themselves.

E. REHATSEK.

\* The fathers probably may themselves have had something to do with the above letter which mentions them so favourably; it is on the other hand perfectly certain that incorrigible Dominicans and Jesuits were sent from the convents of Goa as missionaries to Mozambique, and there the governors complained of them *Eusaios sobre a estatística*, &c., Tome IV. p. 145, seq. | † The italics are not ours, but of the Portuguese text.

‡ *Calcutta Review*, No. C.L. October 1882, p. 731.

## ART. II.—BURMA BEFORE THE ULTIMATUM.

### PART I.

#### BRITISH BURMA.

*Burma—Past and Present.* By Lt.-Genl. A. Fytche, C.S.I.

*British Burma.* By Capt. C. J. Forbes.

*The Burman.* By Sway Yoe.

*Government Administration Reports, &c., &c.*

EVENTS, too recent to require more than a passing notice, have drawn general public attention to Burma, both British and Independent, its history and administration.

Being in no way connected with the Government of the country, and being simply a soldier and no politician, places me so far at a disadvantage, that I am unable to speak from personal observation; but I have before me the most recently published works on the subject, together with Government Reports up to 1884. I have visited Mandalay, and been up the great river as far as Bamo, and have been for some months collecting information on the state of King Theebaw's dominions.

It is my intention to divide my subject into two parts, each of which will form a separate essay. In part I, I propose to treat of the country generally—its physical geography, its people, &c., and to supplement this with a succinct account of the present condition of British Burma.

Part II will be devoted to the relation of what was known of Upper or Independent Burma, before the recent transactions and events had taken place.

### PART I.

"Burma," writes Forbes, "including under this designation, both the British province and the Independent Kingdom of Burma extends along the eastern shore of the Bay of Bengal, from the Chittagong division of Lower Bengal to the Isthmus of Kraw. It is bounded on the east by the empire of Siam and the kingdom of Cambodia to about  $21^{\circ} 30'$  N. Lat., and thence to its northernmost extremity by the Chinese province of Yu-nan. Its northern boundary can hardly be defined; it apparently runs up into an angle among the snowy ranges of Eastern Thibet in about  $28^{\circ}$  N. Lat. Thence it stretches westerly, bordering on Upper Assam, Manipúr, the Lushai Hills and the Chittagong division of Bengal to the Naaf River." It is traversed north



and south by one of the greatest rivers in the world—the Irrawaddy, and by two lesser rivers, the Salween and the Sittang.

The Irrawaddy is navigable for steamers for over six hundred miles of its course, but the two latter are much impeded by shoals, rapids, &c. There are scarcely any roads worthy of the name—the rivers being for some months in the year the only sure means of communication throughout the country. Even in British Burma, which has now been in our hands for half a century or so, this is practically the case.

Between these long valleys run ranges of rocky hills, clothed, for the most part, in dense forest. These extensive tracts of woods contain some of the finest and most valuable trees in the world. The teak tree is by far the most valuable. It reaches great perfection on the hills between the Irrawaddy and Sittang, but the best teak forests are to be found along the feeders of the Bangkok river in Siam. The timber when cut is floated down the rivers to the sea, and is, after rice, the most important export of the country. The trees throughout British and Upper Burma, are of vast quantity and variety, the most valuable after teak being the *pyramia Eng. Paluk Thingan*, Thitka, Petwoon, &c., some of which reach a height of over a hundred feet before the first branch is reached.

The climate of Burma resembles, in a more or less degree, that of all East littoral countries in the tropics. The moistures evaporated from the Bay of Bengal descend in the form of deluges of rain, and for many months the country is little more than a huge swamp. The rainfall, which is strangely capricious, varies in districts from 250 to 50 or 60 inches, while in portions of Upper Burma, it does not exceed the average fall in the Indian peninsula.

Burma, on the whole, is not fatal to the health of Europeans. The damp and moist heat is exceedingly unpleasant and relaxing, but organic disease is not common, while slight fevers prevail much. The natives of the country are a thickset, sturdy people, but the Bengalees and Madrasces who have immigrated to Burma are weak and deteriorated in mind and body. Among Europeans, the healthiest are those who are entirely immersed in business. Ladies rapidly lose their complexions.

Now, a word as to the inhabitants themselves. That they are 'a peculiar people' is without doubt, and is proved by the number of books that have been written in ancient and modern times descriptive of the funny little red man, who is generally known to the Eastern world as 'Jack Burman.' Major Grant Allan's oft-quoted sketch of this individual has, in my opinion, never been equalled. "Unlike the generality of Asiatics," he says "the Burmese are not a fawning race. They are cheerful, and singularly alive to the ridiculous; buoyant, elastic, soon

recovering from personal or domestic disaster. With little feeling of patriotism they are still attached to their homes and to their families. Free from prejudices of caste or creed, they readily fraternise with strangers and at all times frankly yield to the superiority of a European. Though ignorant, they are, when no mental exertion is required, inquisitive, and to a certain extent eager for information; indifferent to the shedding of blood on the part of their rulers, yet not individually cruel; temperate, abstemious and hardy, but idle, with neither fixedness of purpose nor perseverance. Discipline, or any continued employment, becomes most irksome to them, yet they are not devoid of a certain degree of enterprise. Great dabblers in small mercantile ventures, they may be called (the women especially) a race of hucksters; not treacherous, or habitual perverters of the truth, yet credulous and given to monstrous exaggerations; where vested with authority, arrogant and boastful; if unchecked corrupt, oppressive and arbitrary; not distinguished for bravery, whilst their chiefs are notorious for cowardice; indifferent shots, and though living in a country abounding in forest, not bold followers of field sports."

This description applies with fair accuracy to the entire population of Burma, but as is the case in all countries, the nomadic hill tribes differ in costume and characteristics from the children of the plain, as much, indeed, as do the highlanders of Scotland from the country bumpkins of the south of England.

The inhabitants of Burma may be said to be four great families or tribes: The Mons or Talaings, the Burmese, the Karens and the Shans. The first of these inhabit the lower portions of the country, Pegu, and parts of Tenasserim. They are supposed to have originally immigrated from Ceylon, although some writers hold that they are the same race as the Siamese. Certain it is that the Talaing tongue is still spoken in Ceylon. Up to within a century ago the Talaings were all independent people, and had their own king and capital at Pegu. In 1760, however, all this country was conquered and overrun by the Burmese from the North. Both races are now amalgamated and there is little trace of the original inhabitants of Pegu remaining.

The Karens are hill tribes, who live in the mountain tracts in the northern portion of British Burma. According to Captain Forbes there are about thirty different tribes of these mountaineers. They are a fair complexioned, round-faced, dirty race. They speak in various dialects, there being as many as ten within an area of fifty square miles. Little is known of the history of these people but it has been suggested that they have immigrated from the mountains of Thibet or Eastern China.

The Shans are a numerous and powerful race and occupy the extensive country which stretches from Yunan to Bankok. Mr. Colquhoun, in his lately published volume, "*Among the Shans*," has given to the world a graphic account of the manners and customs of this remarkable people. They all speak the same language. They are the same race as the Siamese. In appearance, as well as in dress, manner, and occupations, they resemble the Chinese more than the Burmese. They are industrious and enterprising and are keen merchants. They are Buddhists in religion but not such blind followers of phoongee law as the Burmese. Every year large droves of ponies come down to British Burma from the Shan States and in many instances those little miniature hunters of twelve hands, or thereabouts, realise prices that would delight the heart of an Australian horse dealer at Calcutta or Madras. The travellers who have of late years lived among them seem to be of opinion that the Shans are a 'Coming Race.' If to the above we add the Chins and Kachins, who dwell in the hills to the north and north-east of Upper Burma, we have all the races who inhabit the Indo-Chinese countries.

Returning to my subject of British Burma, notwithstanding the existence of a babel of tongues, Burmese is the standard language of the country and is used in the law courts, in the monasteries and in the play-houses. "Professor August Schleicher's classification makes out the Burmese language to belong to the type of isolation languages, consisting of mere roots, incapable of forming compounds, and not susceptible of inflectional change. With few exceptions, all words are derived from original roots which, by being used with affixes and prefixes, are converted, without inflexion, into different parts of speech. It is written from left to right, has no division between the vowels, and is wholly monosyllabic, with the exception of polysyllabic words introduced from the Pali dialect, and even these are pronounced as if each syllable of them was a distinct word."

The Burmese literature consists almost entirely of love-sick plays and sacred lore. Education is almost universal amongst the Burmese but is confined wholly to the males. The monks, or *Phoongees*, are the schoolmasters of the country. There is scarcely a village without its Phoongee house, where dwell these numerous yellow-robed priests, they live on public charity, vow celibacy, and devotion to the public good. In the reign of the late king there were about twenty thousand of these gentry in Mandalay and its vicinity, or one-fifth of the entire population.

"The monastic system in Burma," says General Fytche, "has a practical interest from its being connected with national education. Every monastery has its school, where, harmony with the

national religion, are learnt the same lessons which have been taught from generation to generation for a couple of thousand years. On arriving at some obscure spot in the interior of the country, the first sign of life that often strikes the ear is the murmuring sound proceeding from the monastery schools, and there is not a town or village, scarcely even a hamlet, I think, that has not at least one of these schools. The instruction of the young is one of the several means by which merit, in a Buddhistic sense, is obtained, and has given rise to lay schools also, or as they are called, house schools. These, though comparatively few in number, as compared with monastic schools, are of great importance as they are free from some of the disabilities which are attached to religious seminaries, notably so in the absence of the rule precluding the attendance of female scholars. Owing to these two classes of indigenous schools there is scarcely a man in Burma who cannot read and write and cipher.

As has already been stated above, the Burmese, in common with all the Indo-Chinese races, profess the Buddhist religion. They believe in an infinite succession of existences, varying in space from the shortest insect life to incalculable periods. The consummation devoutly to be wished is annihilation. The five great virtues are—

1st.—Not to destroy life.

2nd.—Not to steal.

3rd.—Not to commit adultery.

4th.—Not to speak falsely.

5th.—Not to drink intoxicating liquor.

Gaudama indicates the binding nature of these commandments in the following unmistakable language: "He who kills as much as a bug or a louse; he who takes as much as a thread that belongs to another; he who with a wish of desire looks at another man's wife; he who makes a jest of what concerns the advantage of another; he who puts on his tongue as much as the drop that would hang on a blade of grass of anything bearing the sign of intoxicating liquor—has broken these commandments."

The Burmese are not bigotted or narrow-minded in religious matters, and even the Phoongees are glad to discuss religious questions with strangers. But they are very firm in their faith, and few converts to Christianity are made. When stationed in Burma, many years ago, I came across a missionary who was deploring the hopelessness of his task. He said the Burmese would, in his opinion, fall under the condemnation of those who 'reject the faith.' I asked him to give me an example of what he considered a case of 'rejection of the faith.' He answered me thus: "I once visited a town in Burma where dwelt a Phoongee of very high degree:

he was a sort of high priest amongst the Phoongees. He dwelt in the highest room of a lofty temple. Hearing there was an 'English Phoongee' come to the town, he asked to see me. I climbed up one story after another until I had reached the chamber where the great man was seated. I found a dried and wizened old human being, seated on a mat from which he had probably not moved for years. But when he spoke I found that his mind was still clear. He said: "Now, English Phoongee, tell me all about your religion." I expounded to him the Scriptures at great length. He at last said, "well, yours is a good religion, but if I understand you aright, if I want to become a Christian I must descend from the great height to which I have climbed and be as any coolie in the street below." I said, that is so. "Then," said he, "I must reject your faith."

If we examine into the social and domestic life of the Burmese we find them utterly unlike our fellow subjects of the "Great Queen" on the other side of the Bay of Bengal. Except amongst the official class, there is no cringing and bending. They are generally frank and cheerful, like being chaffed and laughed at. Even in Upper Burma you will not often meet with unmerited insolence. The loafers about the king's palace appeared to me to be the dirtiest and most ill-mannered fellows I came across up north. The Burmese are great smokers. In this way the ladies are in no way behind their lords. I have often seen a woman take the tobacco leaf out of her mouth and place it in the mouth of her infant as it lay on her breast, the young savage puffing lustily away. Although women in Burma are not considered worth educating, they are more respected than in India. They are much more the companions and helpmates of their husbands. A wife may be made to do all the work for an idle husband, but she is not merely the slave of his passions as in Mussulman countries. You will see in Burma what you will never see in India—a man and his wife walking along a road chatting merrily to each other, and laughing at each other's jokes. No restraint is put upon their actions and they are, on the whole, faithful wives.

Divorce is easily obtained. On this subject General Fytche writes: "A code of divorce is provided for ill-assorted unions which has been pronounced by father Bigandet, the Roman Catholic Bishop of Rangoon, as a 'damnable laxity.' Amongst its provisions are, where a desire for separation is mutual, from incompatibility of temper or other causes, parties can divorce each other by an equal division of goods; or, if one is unwilling, the other is free to go, provided all property except clothes are left behind. A woman can demand a

divorce for ill-treatment or because her husband cannot properly maintain her, and he from her in the case of barrenness or infidelity. Another method, which is not unfrequently resorted to is that of the aggrieved parties turning priests or nuns, which at once dissolves the matrimonial bond. They may return to a secular life at any time and marry ; but, for the sake of appearances their return to the world is usually deferred for some months.

Serious connubial quarrels appear rarer among the Burmese than in most communities, and apart from their natural good temper, the easy severance of the nuptial knot may, notwithstanding its sweeping condemnation by the good bishop, have something in its favour, *viz.*, that of rendering husband and wife mutually forbearing. Kissing, according to Forbes, is unknown among the Burmese. The women are often pretty and well-favoured before childbearing but soon age and dry up. This is not improbably due to the means taken after childbirth to ensure the rapid recovery of the mother. As soon as the child is born, a large fire is lighted in the mother's room and before this she is kept roasting for seven days and nights.

General Fytche is of opinion that this custom is connected in some way with the idea of purification. Looking at the Burman in his domestic life, we find him letting all things 'slide,' and allowing himself to drift calmly on the stream of life. Shway Yoe says, "The Burman is the most calm and contented of mortals. He does not want to grow rich. When he does make a large sum he spends it all on some pious work and rejoices in the thought that this will meet with reward in the next existence. If he never amasses enough to build some great public work (a pagoda or phoongee kyouning, for example) he subscribes what he can and is generous in almsgiving. A bountiful soil will not let his children starve ; and so the Burman jogs on through a cheerful existence, troubled by no anxious cares, and free from all the temptations of ambition. His daily round is simple enough.

In the morning, after his bath, he loiters about talking to his neighbours till breakfast-time ; or, perhaps, strolls out to the corner of his paddy-field and indulges in a contemplative smoke. After breakfast he probably dozes through the heat of the day, and when the shadows begin to get long, saunters about again. A semblance of regular labour appears when the paddy is being sown or the grain reaped, but even then no one is the least inclined to disturb himself for the sake of rapid work.

It is sufficient that you are always certain in Burma what sort of weather you are going to have : another hot day or

another wet day is as much a matter of course as the rising of the sun itself and there is, therefore, no use to hurry operations in case of change. The Burmese are inveterate gamblers, and as this generally gives rise to fights where men use edged tools, the British authorities have been obliged to make gambling punishable by law. They are also, the women especially, great players. During the dry season they spend most of their time attending plays, or *peeps*, where they dance and sing and howl all night. Cock-fighting and buffaloe-fighting are favorite sports amongst the Burmese. The first is generally fatal to either combatant; but to witness the latter you will see the entire inhabitants of a village squatted on the ground in an adjoining swamp, while two huge water buffaloes push one another about in a contest which is as harmless as it is interminable.

The Burmese of to-day respect and admire Englishmen. They regard us as a great and wonderful race of men, whose prowess it would be hopeless to resist. But like most Easterns they make no attempt to understand us. Although idle and happy-go lucky themselves, they can understand others working hard to attain some definite object; they see Chinamen constantly at work, but they fail utterly to comprehend our amusement. Why a man who is rich and has a fine house, servants, and good food at his elbow, should spend entire days in the hot season toiling through mud up to his waist, with no more material gain in prospect than the acquisition of a few little long-billed birds, that could be bought in the bazar for a few annas, is a puzzle that Jack Burman will never solve.

Before proceeding to examine into the present condition of British Burma, I will cursorily refer to the history of our rule in this province.

For a clear statement as regards this portion of my subject I will quote General Fyche's words.

"The First Burmese War (1824-6) was fairly forced upon the British Government. For nearly forty years the Government of India had endured indignities, which Great Britain would never have suffered for a moment, but the Indian Government was already engaged in expensive wars against the Mahrattas, Goorkas and Pindarees and was reluctant to engage in further hostilities, which might provoke the enemies of the old East India Company to renew their attack upon the trading monopoly.

"At length, however, the Burmese officials seized an island belonging to the British Government and invaded territory which was under British protection. To submit to such aggressions was clearly out of the question and would only have led to further insults. Accordingly, the British Government was dragged into a war, which terminated, as already stated, in the annexation of Arakan and Tenasserim.

"When these provinces came into British possession in 1826 they were so depopulated and impoverished that the restoration of Burma to the Court of Ava, although opposed to all sound principle of imperial policy recommended itself to favor on financial grounds. But during the quarter

of a century that intervened between the first Burmese war of 1826 and the second Burmese war of 1852, Arakan and Tenasserim had attained a prosperity which is scarcely credible when the general immobility of Asiatic races is taken into consideration.

"In Arakan the population had increased from one hundred souls to nearly three hundred thousand. The revenue had quadrupled, being less than £25,000 in 1826 and at least £100,000 in 1852. The area of cultivation had increased from less than 70,000 acres in 1826 to more than 300,000 in 1852. In Tenasserim it will suffice to say that the ratio of progression was nearly the same.

"During the first ten years of my residence in Burma, the fertile province of Pegu, which intervened between the two British provinces of Arakan and Tenasserim was under Burmese rule; and I need scarcely add that it failed to exhibit any one of those signs of progress and prosperity which characterised the adjoining parts under British administration. Stagnation and squalor were the order of the day. The king who then filled the throne was rather a favorable type of Burmese sovereign and his reign is still regarded as a golden era. Indeed the name of Tharawadi is still familiar to every Burman and to every European residing in this country although it is but little known to the outer world; yet this potentate was a tyrannical despot, who stabbed and shot his ministers with his own hands, and who not only repudiated the treaty which had been concluded with his predecessor, but openly insulted the British Resident at his capital and defied the British Government to do its worst.

"Such provocations would have again stirred up any European power excepting our own; but we continued to endure them, and they were naturally succeeded by outrages on British subjects and warlike demonstrations against British territory; at length, after many years of arrogant insolence on the part of the Burmese officials and vain remonstrances on the part of the British Government, the latter was compelled by a sense of its own dignity, and the very instinct of self-preservation, to send an expedition up the Irrawadi, which terminated in the annexation of the important province of Pegu.

"It is difficult to overrate the value of this acquisition to the British Government and the increased prosperity which has thereby accrued to the people of the country. The two strips of seaboard known as Arakan and Tenasserim have been consolidated and strengthened by the annexation of the territory on the lower Irrawadi, and the three divisions now form a compact province, occupying an uninterrupted line of sea coast nearly a thousand miles in length, and a water communication with the distant interior more easily navigable than the Ganges and which promises to open up a trade route of nearly equal importance to British commerce and manufactures. Indeed, it may be safely asserted that without Pegu our possessions in Burma are of comparatively small value; but that with Pegu our territory in Burma has become one of the most prosperous provinces of our Eastern Empire.

"Upon one point only does the action taken by the Government of India in 1852 appear to me to have been open to question; and even in this direction it has been generally supposed that Lord Dalhousie acted under pressure from home. I allude to the premature withdrawal of the expedition in 1852. Had the force been allowed to remain a few weeks longer, our political relations with the Court of Ava might have been established on a lasting basis which would have proved beneficial to both States. Fortunately this result has been in a great measure achieved in later years, partly by diplomatic action and partly by a spontaneous display of friendship and confidence on the part of His Majesty the King of Ava, which was previously unknown.

"Within a period of little more than eighteen years British Burma has



thus attained a prosperity which can be favorably compared with that of any province in India, and in the latter part of 1866 or commencement of 1867 my predecessor submitted the statistical tables, already mentioned, which showed that during the ten years from 1855-56 to 1864-65 the revenue had increased from Rs. 5,317,922 per annum to Rs. 10,300,620. At the same time the population had increased from 1,252,555 to 2,196,180; the export trade from Rs. 23,241,866 to Rs. 55,555,595, and the import trade from Rs. 26,222,219 to Rs. 48,125,559."

In 1867 General Fytche concluded a commercial treaty with the Court of Mandalay by which our trade relations were ameliorated, with the healthful result of a marked activity of trade in the province. But the improvement for the next few years was not uniform, as General Fytche considers that it ought to have been, had not the Rangoon merchants been tempted to "over speculate."

British Burma of to-day is under the able management of Mr. C. E. Bernard of the Bengal Civil Service, and for its present condition I propose to quote copiously from his last published Administration Report.

With regard to the foreign relations of the Government of this province with Upper Burma little or no change has taken place for the last few years. The attempt lately made by the Government of India to form a new Commercial Treaty with King Theeb was failed and affairs remain unchanged. A French consul has taken up his quarters at Mandalay and, it is said, has been well received; but there does not appear to have been any cause for the excitement this event occasioned at Rangoon last spring.

Except as regards frontier questions, such as the extradition of criminals, &c., little communication is at present being carried on between the British and Mandalay governments. The frontiers are quiet and the Irrawaddy Flotilla Company despatch steamers monthly to Bamo.

Some important public works have been completed in this province during the past year. The Railway from Rangoon to Toungoo is now open for traffic and notwithstanding the unfavorable season of the year at which the trains commenced to run, has been working well since the beginning of the rains. The work has taken seven years to complete, but this slowness has not been due to want of energy on the part of Mr. Mathews, the Chief Engineer, but to the constant interruptions in the work owing to want of government funds.

Captain Jenkins, Assistant Commissioner, has successfully accomplished a survey of the Karen hill districts and arranged the settlements.

Surveying operations have also been in progress in all the four districts, Pegu, Arakan, Tenasserim and Tharawaddy and the settlements are in most surveyed districts completed.

The increase of revenue resulting from the settlement up to the present time amounts to only 39 per cent. But the advantage of having accurate statistics of cultivation and of tenure, and the benefit conferred on the people by the removal of all uncertainty concerning the amount of the revenue demand, are more important than the financial results of the settlement.

With regard to recent legislation in this province the repeal

of the British Burma Labour Law has removed all restriction to free immigration with the result of an important increase of population. Laws have also been passed affecting gaining a Tramway Act to enable tramways worked by steam engines to be laid down in Rangoon, and a Water-works Bill, which has greatly improved the water supply of the city.

Notwithstanding the material progress of British Burma in all which relates to wealth and freedom of its people, crime, especially dacoities, has decidedly increased—strange to say this form of highway robbery is most common in the neighbourhood of Rangoon. In 1883-4 there were 23,050 cognisable offences reported, which was an increase of 8 per cent. on the previous year. Many of these have been of a very serious nature, *viz.*, dacoities, robberies, cattle-lifting and theft.

The police appear to have behaved well in their endeavours to suppress crime but there is much room for improvement in their organisation. The officers are indefatigable and devoted, but the *morale* of the Burmese portion of the force is by no means of a high order. The cost of the maintenance of this force was in 1883-4 £189,255 sterling.

The police officers are of opinion that the increase in the number of dacoities is due to the influx of bad characters from Upper Burma. An ordinary dacoity is thus practised among the Burmese: a number of young sparks—as a rule not more than ten or a dozen at most—form themselves into an insignificant robber band and arm themselves with *dāhs* and in exceptional cases, firearms. Usually at night, although by no means always so, the party descends on some quiet little village where they have reason to believe there is something to be had—money is generally their aim. They make no attempt to conceal their movements. They yell, fire off their guns, and brandish their *dāhs*. They rush into the houses and demand money, which is generally produced by the terrified inmates who are only too glad to be allowed their lives. This done they decamp, shouting and singing songs, and, having divided the spoil, quickly scatter to their homes, where they are nothing more than honest tillers of the soil.

As may be imagined, it is no easy job to lay hands on these rascals. The Police report a dacoity in a certain district. The unfortunate officer—there is little rest for a time—has to be up and off in pursuit. He knows that without time not a policeman will move hand or foot. He generally selects two or three followers and, armed with a revolver penetrates jungles and swamps in search of an enemy which is far too cute to be thus clumsily entrapped.

The garrison of British Burma has not changed since the war of 1852 came to a termination by the annexation of Pegu.

There are four batteries of artillery—two garrison—two mountain. Two Regiments of British Infantry and three native regiments.

" They are distributed between Rangoon and the two frontier stations of Thayetmyo and Tounghoo.

The numbers of effectives may be taken roughly 'at three thousand men and the annual cost of maintenance £ 274,475 sterling.

I will now proceed to consider the important subject of agriculture.

Writing in 1871, General Fytche remarks : " The leading feature in the past and present condition of British Burma is the vast excess of cultivable land over land actually under cultivation. I have reason to believe that speaking in round figures, there are thirty thousand square miles of cultivable land in this province which are lying waste for want of cultivators ; whilst there are not more than three thousand square miles which are under cultivation.

At the same time, the population has already increased from about one million at which it apparently stood at the introduction of our rule to nearly two and a half millions. It would thus appear, *a priori*, that if two and a half millions of people can be supported by the cultivation of 3 000 square miles of land, the cultivation of the entire area of cultivable waste would maintain ten times that amount of population or about 25,000,000 of peoples, whilst the great increase in the population of British Burma proves that there is a yearly immigration of Burmese, Shans, Chinese and other cognate races into British Burma driven out from their own countries by the exactions and oppressions of native rulers who are eager to cultivate new lands under the peace, protection and personal liberty which they may enjoy under British Administration and which cannot be found elsewhere throughout the Malacca peninsula."

The population of British Burma is now 3,736,771 and the amount of land under cultivation is 6200 square miles ; thus the increase in cultivation is nearly in proportion to the increase in cultivation. The chief efforts of the Agricultural Department, according to the 1883-4 report, have been devoted to attempts to introduce the cultivation of new staples and to induce the people to use improved implements for their ordinary tillage. Experimental farms have been set on foot in various parts of the country, the growing and curing of tobacco has been encouraged and attempts are being made to grow and manufacture jute in the province. The experiments at wheat growing have not been successful. Sugar cultivation is also being attempted. The people have so far not taken kindly to the use of improved agricultural implements but time will, as elsewhere, remove their prejudices in favor of the more primitive machines of the past. The failure in the rice crop last year is attributed by the Government officer to the drought in October 1883, and the storms in the following month.

The forests of the British are of considerable extent and value and the timber trade has always been a source of no small revenue to the Government. There are at present 3,346½

square miles of reserved forest and the reservation of still further tracts is under consideration. The cultivation of village catch forests is under contemplation. The supply of teak has late years shown signs of exhaustion, and the greater part of this costly timber has lately come from Upper Burma, but extensive plantations of young trees have been planted in various districts and are doing well.

The mining operations of this province are neither considerable nor fraught with much success. Tin mining is being carried on in the Mergui district, for the most part, by Chinamen, who are content with small returns for their labour. There are earth oil works in the Kyoukphyoo-district and coal is found here and there in small quantities, notably in the neighbourhood of Thayetmyo. There are few indigenous manufactures in Burma. Gold and silver work has lately received much impetus and carving in wood is being vigorously carried on at Rangoon. The high appreciation shown at the Calcutta Exhibition for Burmese art has greatly stimulated the work. The schools of art at Rangoon are overwhelmed with orders for cups in gold and silver, figures in wood, and finely carved cabinet work.

During the past few years the chief exports from British Burma are rice, teak, catch, cotton and hides. The rice trade forms the principal commercial work of the country. The total quantity of rice exported during the years 1883, 1884 was in value £23,700,000 and 24,000,000 respectively. The inland trade is chiefly with Upper Burma although smaller transactions are carried on with Karenni, Chiengmai and the Shan States. More than 70 per cent. of the trade in Burma is carried on at Rangoon, the places of next importance are Moulmein, Akyab and Bassein.

The progress of engineering science in British Burma is no less the subject for the solicitude of the Government than in other provinces of our eastern empire. The work of the Engineer is no sinecure here. He has to cut his way through dense jungles, which for many months of the year are swamps as well. He has to bridge over countless streams. He has to sleep in too many cases in an improvised shed directed by his handy helpmates, on the spot where his day's work is done. His roadways are swept away and his bridges broken down by floods and floating logs. Fever prostrates his followers, and if he escapes himself he is exceptionally fortunate. Still this brave pioneer works on undaunted—his only cry being "More money!" "More money!" Exclusive of expenditure on State Railways, the outlay on public works amounted to £444,516 in 1883-4.

The expenditure on construction and maintenance of roads was £200,000. There are two or more schemes before the Government for a further extension of railway communication, but it is not likely that anything will be undertaken until the great pressure brought to bear on the finances of the Indian Government by the construction of railways on the frontier of Afghanistan has been removed.

The revenue of British Burma was in 1883-4 £3,127,192, showing an increase on the previous year of 1 per cent. This would have been greater had it not been for the falling off in the customs receipts consequent on the decrease in the exports of rice. "It is worthy of notice" says the administration report "that revenue of all kinds is realised with little difficulty. Although the incidence of taxation is higher in this province than in other part of the Empire, the revenue demand does not press heavily on the people. The number of coercive processes issued in comparison with the amount of the collections is small."

The all important question of finance has been for years' and is now, more than ever a subject for, I may almost say, vexed discussion. Burma, they say, has a permanent grievance against the Government of India. She has prospered and grown rich but to what purpose? In order that her masters should pay their debts out of her hard earned savings!

For the sake of clearness in this matter I will quote the figures given in the report before me. The following tabular statement shows the gross receipts and disbursements on account of the imperial and provincial services of the province for each of the past eight years :—

Detail of Items	1876-77	1877-78	1878-79	1879-80	1880-81	1881-82	1882-83	1883-84
<i>Gross Revenue.</i>	£	£	£	£	£	£	£	£
Civil Department I. L. P.	1,766,102	1,744,539	1,909,915	2,149,373	2,186,430	2,478,516	2,505,735	2,639,657
Public Works Department..	6,306	39,879	109,362	121,166	152,200	172,889	172,866	180,999
Total ...	1,772,408	1,784,358	2,019,277	2,270,539	2,338,630	2,651,405	2,678,601	2,820,656

Detail of Items.	1876-77	1877-78	1878-79	1879-80	1880-81	1881-82	1882-83	1883-84
<i>Grants &amp; Charges.</i>								
Civil Department ..	704,941	667,644	755,218	836,372	913,404	967,113	1,070,995	1,111,954
Public Works ..	182,319	150,557	271,769	261,209	369,583	526,820	571,377	513,165
Total ..	887,260	819,201	1,027,087	1,097,581	1,292,987	1,493,933	1,645,302	1,657,519
<i>Results.</i>								
Surplus in Civil Department ..	1,061,161	1,075,893	1,151,603	1,313,051	1,263,026	1,511,411	1,431,747	1,495,603
Deficit net P. W. Expenditure ..	176,613	115,718	163,407	140,743	217,338	353,971	191,411	332,456
Net surplus available for Military expenditure and for a share of the cost of the Central Government ..	884,548	960,175	988,196	1,172,308	1,045,688	1,157,440	1,240,336	1,163,147

From the foregoing statement it will be seen then that the aggregate surplus of eight years, commencing from 1876-77 has been £8,414,102. The surplus in 1876-77 was £885,148, and in 1883-84 £1,163,137; being an improvement in the latter year of 31·405 per cent.

The traffic receipts and expenditure of the Burma State Railway amounted respectively in 1883-84 to £167,717, and £102,117; as against £158,688 and £98,816 in the previous year, the surplus being £65,600 as against £59,875 in 1882-83. The interest on the capital expenditure of the Irrawaddy branch for 1883-84 was £53,601 leaving a net profit on the year's transactions of £11,999, equivalent to 4·92 per cent. on the capital expenditure in 1883-84, and to 0·9 per cent. on the total capital expenditure to the end of 1883-84. The interest on the capital expenditure on the Rangoon and Sittang branch amounted during 1883-84 to £31,717.

The net cost of troops stationed in Burma in 1883-84 is £274,474. This would leave £888,663 available for remittance to India, but the net remittances actually made amounted to £1,100,000, the difference having been taken from the accumulated surplus of previous years. Thus the facts of the case are laid before the reader and they speak for themselves.

A few remarks on education will bring this essay to a close.

As regards the general progress of education in Burma this branch of the legislature is still under the direction of Mr. Hosdow, who has held his present post for nearly twelve years. But his zeal and energy are still unabated, which is probably due to the fact that he is still little past middle age. The experiment has lately been tried of placing the management of government schools in the hands of town committees, and the result has been satisfactory. The number of scholars in the government schools is greatly on the increase but at the examinations the number who pass is small compared with the number of candidates who offer themselves for examination. The extension of university education is under consideration. Of the monastic schools over 4,000 are under inspection. Three girls' schools have been established. Dr. Mark's school at Rangoon has of late years assumed considerable proportions; he has over four hundred pupils, boys of every age, from fifteen to thirty, of every colour and hue, and, as he proudly boasts, of fifteen nationalities. The institution is a wonderful example of what one man unaided except by public charity, can perform. The Rev. Doctor is a keen soldier and can send forth two hundred and fifty cadets armed with Martini-Henry rifles to take part in the brigade exercises at Rangoon. Such then is the British Burma of our day.

There are two important questions which are agitating the minds of the educated inhabitants of this province. The first is the great question of our relations with Upper Burma; the second is the desirability or otherwise of the emancipation of the country from the Indian Government and its establishment as a Crown Colony. The argument for and against are numerous and conflicting. Without attempting to express any opinion on either subject I would point out that the repeated stoppage of public works for want of funds has acted detrimentally to the material progress of the country. It has taken seven years to construct 155 miles of railway from Rangoon to Toungoo, and there is still no road of communication between the two frontier stations although considerable detachments of troops have been stationed there for more than a quarter of a century.

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## BURMA IN 1885.

### PART II.

#### UPPER BURMA.

**I**N my previous article on British Burma I referred cursorily to the early history of the Burmese. As this article will be devoted to the description of Upper, or Independent Burma, it will be well, I think, to give the reader a slight insight into the past history of that country before proceeding to describe it as it is to-day.

"The Burmese," says General Fytche, "carry back their history to a very remote and fabulous antiquity. The Burmese *Maha Radza Weng* (Chronicles of Kings), commences with describing the self-development of the world, and the appearance of man therein. The system of cosmogony has, together with the Buddhist philosophy and religion, been derived from India. The history contains the Buddhist account of the first formation of human society; the election of a King, and the grant to him of a share of the produce of the soil. These legends constitute to this day the foundation of the authority, temporal and spiritual, of the Burmese Kings. The foundation of that authority they continually refer to, and it is ever present to the minds of their subjects. It is unnecessary to point out that little reliance can be placed on history drawn from such vague sources. Indeed, whatever is known of the early history of Burma is derived from the writings of the first Europeans who landed on these shores.

The Portuguese, the pioneers of Eastern civilisation, were the first Europeans to settle in Burma in the middle of the sixteenth century. They found the country ruled by a number of more or less powerful kings, who successively ousted one another from power and seized new territory. These fights were accompanied with fearful barbarities; and finding that there was much to be gained by mixing themselves up in these quarrels, they soon took an active part in them.

In 1600 we hear of a Portuguese adventurer named Philip de Brito establishing himself as a sort of king in Lower Burma. This gentleman, however, was attacked, defeated and impaled by the King of Ava (the old capital of Upper Burma). Throughout the seventeenth century the history of Burma is mixed up with that of a succession of Spanish and Portuguese adventurers who, ostensibly traders, were ever at work stirring up strife among the natives. They generally allied themselves on the stronger side, or turned the scale by a few hundred well armed men, and then demanded a heavy price for their assistance. In brutality and rapacity these brigands were in no way



behind the savages they fought amongst. They were generally accompanied by cruel and bigoted priests, who taught them to slay broadcast and without mercy all who refused to adopt the Roman Catholic faith.

The first of the present reigning dynasty of Kings of Ava, (Alompra) arose in 1752. He was a man of low birth but of transcendent power. Out of a succession of wars and tumults he raised himself from the degraded (according to Burmese views) profession of a hunter to be a king. In fact he was a natural leader of men, and the only Burman known to history who could, by the greatest stretch of imagination, be called a hero. He founded an empire which extended from China to Siam, including the whole of Burma, except Arakan, which was for the first time consolidated into one United State under his rule. "He founded the city of Rangoon; and it was during his reign that the British Government was first brought into political relationship with the kings of Burma. He died in 1760." No sooner had this commanding spirit passed away, than Burma became once more convulsed by internecine strife.

During the reign of Bhodan Phra, the fourth king of this line, the capital was shifted from Ava to Amarapura, a site about six miles higher up the river. The change of capital which was rigorously enforced caused great sufferings to the unfortunate people. This Prince conquered Arakan and annexed it to the Burmese Empire. He died in 1819, and was succeeded by his grandson Phagyi-Phra, who behaved with such insolence and presumption towards the British Government, that the first Burmese war was the result. This war lasted two years. The Burmese fought with some tenacity, especially when they were ensconced behind their rough stockades; but they were finally driven northwards; and when the British troops were at the gates of the capital, a treaty of peace was concluded by which the Burmese king agreed to give up the provinces of Arakan, Tena-serim and Assam and to pay one million sterling as a war indemnity. The war on our part was not skilfully conducted, and the troops suffered much from want of provisions, 45 per cent. perishing from disease. The total loss during the war reached the enormous figure of  $72\frac{1}{2}$  per cent.

In 1830 a British Resident was deputed to the Burmese capital and remained there for some years with good effect. The same year Phagyi-dan was deposed by his brother Tharrawaddy, who established himself on the throne. He began by a massacre of his brother's relations and supporters, and by his insolence and arrogance, soon made his capital too hot for our representative, who was ordered to withdraw.

Three residents were despatched to Amarapura and withdrawn successively. The last departed in 1840, when Tharrawaddy

determined to declare war on England for the recovery of his lost provinces. With this sinister determination in his brain he departed for Rangoon, but on arrival there, he thought better of it and shortly afterwards returned to his capital.

The state of things in Burma for the ten years that followed the withdrawal of our representative resembled, in a remarkable degree, affairs at Mandalay since the hurried departure of Mr. St. Barbe in 1876. There being no responsible Englishman at the King's Court, nothing was really known as to what was going on. Every vestige of respect for the British name soon disappeared, and it was only at the risk of being shot, robbed, or bastinadoed, that British subjects could carry on business of any kind in Burmese territory. The result of all this was, that in 1852 war was once more declared against the Burmese King. Rangoon was captured, and the Province of Pegu added to the British possessions in the East. The fighting was not important, and, as in the last war, almost all our losses were due to sickness. The war thus forced upon us by the silly arrogance of the Mandalay Court has happily ended in the emancipation of a couple of millions of people from a barbarous rule, and the formation of our possessions in the Malay peninsula into a compact province.

The close of the Second Burmese War was immediately followed by an insurrection in Upper Burma, which terminated in the dethronement of the king and elevation to power of his brother, who was known as the Mendoon Prince. This king proved himself to be the most prudent and enlightened ruler who had hitherto reigned in any of the numerous capitals on the Irrawaddy. The fact of his life was to recover his lost province of Pegu. Accordingly, in the beginning of 1855, a complimentary mission arrived at Calcutta from the King of Burma. The object of this mission was to request that the province of Pegu might be restored to its former owner. This matter was put at rest by Lord Dalhousie in the following unmistakable language: "So long," he told the envoys, "as the sun shines in the heavens, so long will the British flag wave over Pegu." They were informed, however, that a complimentary mission would be sent to Amarapura, in return, to discuss commercial and other affairs with His Majesty.

"The main object of the mission," says General Fytche, "was not only to establish friendly relations, but to make another attempt to conclude a definite treaty with the king; and this fact was broadly stated at the first audience." Colonel Phayre, the British envoy, remained some weeks at the capital, during which time he had several audiences of the king, where every subject was discussed except the point at issue. In a word, nothing was accomplished. His Majesty could not be

persuaded to put his name to any paper, and the mission returned to Rangoon, not without having done good public service by the collection of valuable information about the country and people. This is contained in the costly and profusely illustrated volume entitled "*Yule's Ava*," which will probably ever remain *a*, if not *the*, standard work on Burma. Years passed away and the capital was transferred from Amarapura to Mandalay.

In 1862 Colonel Phayre once more proceeded to the Burmese Court. His object was very much the same as on the previous occasion—to induce the king to conclude a commercial treaty with the British Government. \* "The main object in view was the abolition or reduction of the frontier duties, for the purpose of opening out a new trade with Upper Burma, and, if possible, with the countries beyond. The British Government agreed to abolish the duties on their side of the frontier within a year. In return, the Burmese Government agreed to do the same, if so inclined, within two, three or four years. This was a one-sided arrangement, but it was considered necessary to educate the Burmese in the principles of free trade."

Accordingly, the treaty of 1862 was concluded on this basis. Some solid advantages were also promised under the treaty. British subjects were granted full permission to trade in any part of His Majesty's dominions; and a representative of the British Government was to reside at Mandalay to smooth down all difficulties, and remove all misunderstandings that might arise. The working of the treaty of 1862 was not satisfactory; it can scarcely be said to have worked at all. The British Government abolished the duties on their side of the frontier; the Burmese Government did nothing whatever.

The king had been glad to dismiss the English envoy in the hope of some day abolishing the duties. In like manner he dismissed the English representative at Mandalay: he was only waiting for further reports: the English were to blame: he would take an early opportunity of settling the question. In this way three or four years slipped by, and in 1866 the frontier duties were still levied by the Burmese authorities. The British merchants at Rangoon, as can easily be understood, were exasperated at the delay. All this while there was a still more formidable obstacle to all attempts to open out a trade in Upper Burma. Nearly every article of produce in Upper Burma was a royal monopoly. No Burmese subject could sell grain, timber, catch or other commodities, excepting through royal brokers, or by the express permission of the local authorities. Other difficulties also sprung up, which might have led to serious consequences. The King was well disposed towards the English, but his

officials were imbued with the old arrogance towards foreigners which two disastrous wars had failed to remove. Two British officers who had been sent into the interior to explore the upper course of the Salween river, were stopped and sent back by the Burmese authorities, in direct violation of the treaty. Obstacles were thrown in the way of any attempt to explore the upper valley of the Irrawaddy, in the direction of Bamo. Above all, an English gentleman, wearing European costume, was insolently beaten in the streets of Mandalay for refusing to sit or kneel, whilst a Burmese official, of no particular rank, was passing by. These complications were somehow explained away.

In 1866 another mission was determined upon, but before it could start, an insurrection broke out in Upper Burma, which seemed likely to lead to a revolution at the Court of Mandalay. Although the dynasty of Aloinpra has been maintained for more than a century, the kingdom had been constantly exposed to palace revolutions. Not unfrequently a reigning king has been suddenly deposed and another sovereign set up in his stead. Instances have already been narrated of similar outbreaks in connection with the reigns of Phagya-dan, Tharrawaddy, and the present king. The attempted revolution of 1866 was of this type. The King had favoured his brother, the Kanoung-Meng, who had assisted to place him on the throne at the expense of his sons. He had appointed his brother to be Jeng-shé-Meng or Crown Prince. He had placed his sons, after they came of age, entirely under the control of the Crown Prince. His sons complained of the harsh treatment and tyranny of their uncle. Two of them formed a conspiracy against him.

The king had left the palace in the city of Mandalay and gone out to a summer palace about three miles off. On the 2nd of August 1866, when the Woongees and other officials, with the Crown Prince as President, were assembled holding council in the temporary Hlwat-dan, situated close to the gates of the palace, the two princes suddenly rushed in with about thirty armed followers. The Crown Prince and one of the ministers were killed on the spot. Two other princes who stood next in succession after the Crown Prince, were also slain. So rapid was the slaughter in the Hlwat-dan, and so great the panic and consternation caused by this sudden and unexpected attack, that before the palace gates could be closed, the rebel princes and their followers had made good their entry into the interior enclosure of the palace. The King, warned fortunately, however, by one of the queens who had been alarmed by the noise, succeeded in making his escape on foot to the palace within the city. The summer palace was given up to plunder, but the rebel princes, on discovering

the king's escape, withdrew their men in pursuit of the king and reached the city palace only a few minutes after his arrival. They besieged the city palace until the following morning when they were driven off by a strong detachment of the late Crown Prince troops. Captain Sladen, the British representative at Mandalay, was in the summer palace at the time the outbreak occurred. Of course it was impossible for him, or for any one else, to foretell the result. He escaped with his life from the infuriated rebels, and made his way to the British Residency. There he found a crowd of Burmese and others in the Residency compound. It was evident that during the insurrection the Burmese considered themselves more secure on the premises of the British representative than in their own houses. Captain Sladen remained at Mandalay for seven days after the commencement of the outbreak, but great anarchy and disorganisation still prevailing, and being informed by the king that he could not guarantee either the safety of the lives or the property of the European residents, he embarked with nearly the whole of them, with such property as they could hastily gather together, on board a British merchant steamer, then fortunately lying off Mandalay, and proceeded down the Irrawaddy to Rangoon, which was reached without opposition. This steamer the King had been employing against the rebels contrary to the wish of the British Resident, and it required some considerable tact and caution on the part of Captain Sladen to regain possession of her without bringing on an actual collision with the king's troops. The insurrection was suppressed, but the rebel princes having seized one of the king's steamers escaped down the Irrawaddy into British territory."

The old King now found himself once more master of the situation ; and although at the end of the year Colonel Phayre once more proceeded to Mandalay with the object of getting His Majesty to put his name to a treaty, the Chief Commissioner was obliged to return to Rangoon without having accomplished anything.

In 1867 Colonel Fytche, who had succeeded Colonel Phayre, conducted a mission to Mandalay. Something was really accomplished this time ; at least certain promises were made and a treaty signed. This treaty provided for the utmost freedom as regards commercial intercourse between the people of the two countries ; for the permanent residence of a political agent at the court of Mandalay, who was to be the medium of all official communications between the British Government and the King of Ava and his ministers ; and for the establishment of a court, in which the political agent had the power to adjudicate in all such cases in which British subjects were alone concerned and in which a Burman official of high

rank sits on the same bench for the adjudication of all civil cases in which both Burmese and British subjects are concerned. Moreover, under this treaty the King gave up his more oppressive monopolies, and measures were carried out for the opening of the old trade route with Western China by which, in former years, a considerable trade had been carried on between Burma and Yunan.

His Majesty of the Golden Feet seems to have made a good impression on the Chief Commissioner. He says: "The King is doubtless one of the most enlightened monarchs that has ever sat on the Burmese throne, and his reign has not been disgraced, like his predecessors, by wanton atrocities and wild excesses. He is polished in his manner, has considerable knowledge of the affairs of state, and the history and statistics of his own and other countries" How or when the King picked up his knowledge of affairs it is not easy to conjecture, but certain it is that he had good information on what was going on in Europe and Asia.

The Rev. Dr. Marks, who was head of a boys' school at Mandalay, when I visited the capital in 1871, and who has always been, and still is, a power in Burma, has given me the following graphic account of a conversation which took place between His Majesty and himself on a certain occasion:—

The King loved to talk to the English *phwoongee*, as he called the Rev. Doctor. The ostensible subject was the education of his countless sons—he had about seventy in all—but really most of the audiences was devoted to pumping the missionary on the state of the English pulse.

*King.*—"Marks, it's a long time since you have been home to England?"

*Dr. Marks.*—Yes, your Majesty, my duties as a missionary and schoolmaster keep me pretty busy here.

*King.*—Ah! But it is good for us all to visit our home and friends occasionally: I think you ought to go home soon—when will you go?

*Dr. Marks.*—Well, sir, I might possibly think of going home next year.

*King.*—(*Much pleased.*) Yes, I think you ought. Now tell me, Marks—you and I have always been good friends—will you take home one of my sons. I want him to be presented to the Queen of England. Come! I will send you home in my own private steamer.

*Dr. Marks.*—I fear I could not undertake such a charge, your Majesty. I dare not do so without the consent of the British Government. Again, I fear the Queen of England would not receive me. May I ask your Majesty what good could come out of it all.

King — *After much hating about the British Viceroy, I want my son to ask the Queen to give me back the province of Pegu and Rangoon.*

Dr. Marks. — Your Majesty, it would be useless. The English will not give me territory. I cannot consent to undertake charge of a puppet-son.

King — *(In a rage.)* Then, what are you here for? Why have I talked to you as a friend. You are no friend of mine. Why have I built you a school and a church? Do you think I am to get nothing in return? You can go.

"Although," said Dr. Marks, "he had been in the habit of sending for me on all possible occasions to ask my advice upon the most trivial matters, he never would see me again. Some time after this event, when in conversation with several Burmese officials, a message arrived for me from the king to the effect that I had better leave Mandalay at once. His Majesty would not be responsible for my life. The message was given out loud, and some of the officials laughed. I said, coolly, 'you can tell His Majesty that I shall not leave the capital until the time for which I originally arranged to stay has expired, and, in the meantime, my life is as secure as that of His Majesty.'" The Burmese officials seemed petrified at my temerity, but I walked off to my school, apparently quite unconcerned. The next day all the royal princes were withdrawn from the school, but otherwise, everything went on as usual. I never heard any more about the matter, and in the following February I closed my school and departed for Rangoon, whither many of my pupils have followed me."

The present King, Thee Bau, was a pupil in Dr. Marks' school when I visited Mandalay in 1871. He was then a lad of about thirteen or fourteen and had the character of being a rather clever, morose boy—not caring for the companionship of his brothers, by all of whom he was hated.

Affairs jogged along somehow at the Burmese capital till 1878, when the old King gave unmistakable signs that his end was approaching. In a pamphlet, which is before me, entitled "Upper Burma under King Thee Bau," will be found an account of the hitherto not very successful reign of that monarch. It would appear that in September 1878 the King became so seriously ill that little hope was entertained of his recovery. The question of a successor naturally arose. The rightful heir was the king's eldest son—the Nyong Yaw prince—who Dr. Marks describes as a fine, manly youth. But not for the first time in history a woman, one of the king's wives—had determined that it should be otherwise. Thee Bau had just married his half-sister, the princess Soopayah Lat, and her mother, an unscrupulous and clever *intrigante*, determined that

her son-in-law should be made king. She sent for the Won-Meng-Ghee, or chief minister, a very old man, and terrified him into a promise to support her man. The king died and Thee Bau was placed on the throne. His two elder brothers expecting to be murdered, took refuge in the British Residency, and from thence made their way on to a steamer and were conveyed to Rangoon.

"Directly after the fact of the Meng Done Meng's death and Thee Bau's accession," writes Mr. Woolton, "a most wonderful manifesto emanated from the king and his advisers. It set forth that Thee Bau was about to govern by means of a council, that all monopolies were to be abolished and that henceforward peace and prosperity were to reign undisturbed from Mandalay to Bhanno. The good faith of these protestations on behalf of the young king was accepted without question. Yet a change was not long in coming. In February 1879, news of the terrible disaster of Isandhlana was telegraphed over the world. Thee Bau believed, and rightly as the sequel proved, that the time had come for him to secure himself on the throne without any interference on the part of the British. He at once threw off the mask, and in a few days eighty-six of his blood relations had been either battered or choked to death or buried alive, and a large number of their friends had perished with them."

It would serve no purpose to enter into details, as the above quoted writer does, of the horrible barbarities committed at this and other massacres. The fact was, on this occasion the princes and their wives and families were decoyed into the palace and then handed over to the diabolical ruffians who pass for soldiers at Mandalay. The women were violated, then chopped to pieces, and the men battered to death with sticks, and thrown down wells. The Resident, Mr. Shaw, remonstrated, but to no effect. He was not supported, and little notice was taken of his appeals. The princes dead, Thee Bau sat firm on his throne; but there was no security for life and property at Mandalay. Mr. Shaw died in the following June. Colonel Horace Browne, perhaps the boldest and most able officer in the Commission, was next despatched to the capital, but finding himself a nonentity, almost at once applied to be relieved. Mr. St. Barbe next took charge of the Residency, but finding his life and property in hourly danger, put himself on board a steamer and departed down country. He was accompanied by all the Europeans who valued their skins. It was thus that the representative of an empire on whose might the sun never sets, was allowed to be treated by a savage usurper. The Residency was abolished, and since that time no representative of the British Empire has been allowed to watch



over our interest at the Burmese Court. In 1880, after what is known as the British policy of "repose and defence" was made known to the king, another horrible massacre occurred at Mandalay.

The object of the crime seems to have been to appease the offended Nats and stave off a terrible epidemic of small-pox which was ravaging the city. Five hundred victims were secured, amidst a general stampede from the city, but it is believed that not more than two hundred were offered up as a human sacrifice to the fractious wooden gods. In May of the same year, one of the exiled princes made his way into Upper Burma from Calcutta, but nothing came of his attempt to oust Thee Bau. In the following year domestic troubles overtook the 'Phoongee king.'\* His young wife, who soon showed herself to be her mother's daughter, presented him with a son and heir amidst great rejoicings. The child died, and on the two following years daughters only were born to him. He was determined not to stand this, and while his young wife was still in the doctor's hands, after the birth of her second daughter, he unfeelingly married another girl. The aggrieved young queen was equal to the occasion. She arose from her bed of sickness, and she and her diabolical mother proceeded to have their revenge. The poor girl was murdered, and her father—a high minister of state—was cast into prison, where it is supposed he has long since succumbed to royal treachery. These two women entirely ruled the roost at Mandalay up to a very recent period. Every one feared them, and well they might.

On the 21st September 1884, the last massacre that has disgraced the reign of Thee Bau, took place at Mandalay. It is thus described by an eye-witness: "A dreadful massacre occurred here on Sunday evening; the Government have endeavoured to make it appear as merely the suppression of a jail outbreak, headed by a band of desperate dacoits, but I have every reason to believe that this is far from the truth. In fact, instead of posing as the representatives and vindicators of law and order, there is no doubt that the king and his ministers ought to be denounced as the butchers who carried out one of the most unjustifiable and cruel massacres of ancient or modern times. So far from the incident having come upon the Government unexpectedly, there is every reason to believe that it was the result of a preconcerted plan concocted by themselves. I believe that the scheme

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\* When a boy at Marks' school Thee Bau was nicknamed "The Phoongee" by his brothers. The story goes that his mother was much given to the society of a certain "spiritual adviser" some months previous to the young prince's birth.

originated with some of the ministers who have been coquetting with the Mengoon Prince. Some of their followers, who were in their confidence, had been unfortunate enough to get into prison, and their patrons became afraid that they would purchase their freedom by disclosing inconvenient secrets. These ministers, therefore, went to the king and told him that they believed a number of desperate characters in the jail had been conspiring against him, and although they were in custody, their departure to Neikbau was desirable, in case a rising occurred, which might lead to their escape and their joining the Mengoon Prince. Combined with the reports of the Mengoon's escape from Pondicherry, this naturally incensed as well as alarmed King Thee Bau, who was anxious for the immediate and wholesale execution of the rebels against his authority. The ministers, however, represented to him that in view of the present relations of Ava with Britain and France, a vulgar and barbarous massacre would not be politic, and that a little diplomacy should be used. Accordingly word was sent by a confidential man to the jailor that he might liberate such and such prisoners. As soon as he acted on these orders, another officer roused the jail guard to quell the "outbreak," and the first man killed was the jailor himself, who was best out of the way, on the principle that, "dead men tell no tales." No sooner were the first shots fired than the ministers and officials swarmed round from all quarters, the troops arrived from the palace, and the slaughter began. A number of the fugitives who had got outside the jail were pursued and cut down in the streets, whilst those who remained in the jail were shot down mercilessly without distinction. To make sure that none of the victims should escape and that no assistance should reach them from outside, the city gates were closed from 4 till 10 o'clock P.M. The scene that then occurred at the jails baffles description; the poor wretches inside it would not come out, and the monsters who sought their lives set fire to the building on the east side of the palace, and then murdered their victims, one by one as they fled from the flames. No mercy was shown to either age or sex: and a number of those butchered were not even prisoners, but people who had gone to see their friends, or to carry food to them. I am confident that at least three hundred people were massacred, amongst whom were eleven women, three Chinamen, one Hindoo, two Chittagonians, some Senatees, two young Princes and one Phoongee. I believe there were only eleven dacoits altogether in the jail; they were all killed, and amongst them Yanmin, a desperate character, who on account of his skill and bravery, was liberated some time ago to quell the Shan rebellion, but who, instead, again took to dacoity on his own account and was again captured. This is the same

man who shot pilot Jefferson of the Flotilla Company's service some two years ago.

In the jail were the Meoneah Mee Byah, the grandson of the Maloon Prince, (called the Minepyin Prince) and the grandson of the Intiahmin. The first, who was very ill, was carried out by his sister who was also a prisoner.

While the butchery was going on, the king sent to enquire if the two princes were still alive; the answer was "yes"; but as might have been expected when he sent a second time they were no more. Their heads are now hanging in the cemetery along with that of the Yanmin. The sequel to the massacre was as horrible as that ghastly incident itself. Some of the heads of the victims were stuck upon bamboos in the cemetery and others were carried through the streets on poles. The scene at the cemetery when I visited it was appalling. The king gave orders that the dead were not to be buried for two or three days, so that all the people might see what a terrible thing it was to incur his displeasure; and there were the mutilated bodies lying in ghastly and festering heaps, some of them not only riddled with shot, but hacked to pieces with daks, past all recognition; whilst a number of fiends in human shape were actually chopping off arms and legs to save the manacles and shackles. Not only that, but the dead and dying had been carted off and the quivering of a limb told that the death agony was not yet over. When I visited the cemetery the work of interment had begun, and the carcasses were being huddled four and five together into shallow graves with no more than a foot of earth to cover them. The pigs and pariahs had already been feasting on the slain, and their banquet was continued after the sextons had withdrawn. In striking contrast to this horrible picture, I saw little children playing about, all unconscious of their dreadful surroundings. Meantime the ruffian king and court have been holding high festival over the event to divert the people from thoughts of the true significance of the massacre, and make them regard it as the triumph of the nation over the nation's foes. Poys are being held nightly and the Parsee Theatrical Company have just arrived, and in good time, to make sport in the palace. Ministers are swaggering about on elephants, and the wretched passers-by dare hardly lift their heads from the dust whilst in their presence: boats with bands of music on board are numerous on the river. A king's steamer, gaily decorated, was sent down to Lagain and excursionists invited to take free passages; and the king has rewarded all those who took part in the slaughter—the butcher who could boast of the most victims receiving the richest reward."

Making all allowance for the usual exaggeration of statement which is peculiar to accounts of events written under

circumstances of excitement, not to say of bodily peril to the writer, it seems pretty clear from the above story that it was an act of false clemency on the part of a powerful, civilising state to allow such barbarities to go on on its border.

No excitement has taken place at Mandalay during the past year, but no one has the slightest confidence in the permanence of any institution connected with the state. As regards the constitution of the Burmese government and the various departments of the state about which I now propose to write, little or no change has taken place within the memory of the oldest inhabitant.

The king is an absolute monarch whose word is law. He has power of life and death, and his decree is indisputable. Nominally, however, there is a regularly established system of Government. This is composed of two councils, a public one and a privy one. The first is known as the Hloot-dan and is composed of the principal Woongees, or ministers of state. It is held outside the palace enclosure, so as to give the idea of a certain amount of independence, and combines the functions of a house of legislature, a cabinet and a supreme court of justice. The king is the nominal president of this Court, but seldom or never takes his seat during any deliberations. He prefers to stand aloof and overrule or agree at his royal will.

There are in all fourteen grades of ministers. Most of those have their own private offices, where small transactions are negotiated, but they generally assemble at the "king's gate" to transact important business. In the case of a campaign one of these functionaries would probably be charged with the conduct of the military operations. The second chamber is composed of the immediate advisers of the king. The Royal decrees are first discussed in this body and then communicated to the Hloot-dan.\*

After the Woongees come the Myinzoogyee Woon and the Athetwoon. The former is the commandant of the king's cavalry—ragged fellows mounted on still more ragged ponies—and the latter has the charge and protection of all "civilians." Next to these are the Woondouks who, Mr Pilcher thinks, may be designated "Under Secretaries of State." Each of these has a department assigned to him, of which he is the virtual governor. The term Woondouk is also applied to local governors themselves, and is a title given for service to the state in any capacity. Next to the Woondouks come the Nakhandaws or "Royal listeners." They are a sort of "King's Messengers."

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\* Mr. Pilcher, who I am now mainly relying upon, as the most recent authority on Upper Burma, has a way of spelling Burmese names which differs from Fyche, Yule, or Forbes.

Next come in regular order a long list of smaller fry, royal clerks, writers, public works officers, oaths recorders, door-keepers, &c., &c., all of whom swagger about Mandalay puffed up with their own importance.

The principal officers of the Privy Council are or were the following : Their place of assembly is within the palace enclosure. It is called the byeh-dyke, or "bachelor's chamber." The first ministers of this assembly are the Atwin Woons. Their duty is ostensibly to conduct business connected with the palace, but really to carry the king's commands to the Hloot-dan, and to conduct the members of that body into the presence of the king when they are wanted. Next to the Atwin Woons are the Thandawzins. They write down all the proceedings of this chamber for the information of the Hloot-dan. Besides the above mentioned bodies there is also, in the palace, the Thway-dike or Treasury. The civil and criminal courts of justice are outside the palace enclosure.

Mr. Pilcher, who for some time sat as judge in a mixed court at Mandalay, thus describes the Burmese manner of administering justice at the capital:—"The civil court deals with important business arising in the capital, and hears appeals from provincial and subordinate courts. Appeals relating to landed property and hereditary offices, however, go to the Hloot, from whose jurisdiction no civil case is, at least in theory, excluded. The criminal court disposes of cases arising in the city of Mandalay, but not appeals. All criminal appeals also go to the Hloot ; judicial business is then, on occasion, transacted with great solemnity. When the Crown Prince or any other member of the Royal Family presides, the suitors, or their advocates, are alone allowed to appear in the first instance, the general public being excluded. Both parties must be suitably dressed, and before they appear, they are given long, loose, white coats to wear and caps, of which the plaintiff's is green and the defendant's is red. These are provided at the public expense and are kept at the courts. They are usually worn merely by the advocates for the parties. The members of the council themselves never appear without their proper uniform : a fillet of white muslin round the head, and a loose muslin gown over a tight-fitting, white cotton coat. The analogy between the coats and caps and a barrister's wig and gown scarcely needs to be suggested.

The Myo Woons, or district officers, practically exercise full civil and criminal jurisdiction in all ordinary suits. Appeals in criminal cases, though under certain circumstances they are allowed, are said to be especially rare. Punishments are inflicted at the discretion of the judge, there being no penal code. In most instances the offender can get off with a fine, or at least a money payment. Sometimes, again, when crime has

been so rife as to attract special attention, punishments more cruel than ordinary are awarded. If, as sometimes happens, a district officer has been unusually severe and is called to account, he can generally excuse himself on the ground that his "hand reached further than he intended," that is to say, that he acted hastily—his zeal carried him away.

Of Burmese ideas about the administration of civil justice I had a good opportunity of learning something during my stay at Mandalay: for I then sat, once a week or so, with a Burmese judge in a mixed court. The character of judges for impartiality is not held in such high esteem amongst the Burmese as amongst ourselves. And though they use the laws of Menu to some extent as a civil code, their procedure is, of course, of their own making. Hence it is not surprising that in deciding civil suits, the principal aim of the judge is, if possible to satisfy both parties the result being in almost all cases, a compromise; and that ordeal is a recognised mode of determining disputes. I may here remark that oaths are not used, as in our courts, on ordinary occasions. They are regarded as a kind of ordeal in themselves, and are only taken in the last resort by one of the parties on the agreement of the other to be bound by the result. The oath is taken with great solemnity before the altar, and a sort of festival is held on the occasion, the parties and their friends going with a band, in holiday attire, to the temple. The Burmese say there are six classes of judges. First, there are the parties themselves who may agree together to some decision of their cause. Secondly, they may appoint one or more arbitrators of their own. Thirdly, there is the unpaid, but officially appointed and recognised, arbitrator whose court is termed *Khóng*. Above this are the court of the district officer, then the chief civil court at the capital, and finally, the king, whose authority is mostly exercised through the *Hloot*. The commencement of a suit in court is by the presentation of a written plaint, on which the judge commonly orders an assistant, called the *na-khan*, or "listener," to enquire into the case and report. The *na-khan* examines the parties, and perhaps their witnesses, and presents his report. With this the parties submit their pleadings, *i.e.*, full statements of cause of action, and reply or defence. A day is then appointed for hearing, advocates are chosen, and the case is heard. After the necessary examination of the parties and their witnesses, issues are fixed by the judge, who at the same time declares, on whom the burden of proof lies. Thus the order runs: "let the plaintiff prove so and so." Witnesses are examined after this, and judgment is given. If the parties agree to abide by the judgment, they both "eat tea" and the judgment thus becomes final. If they do not agree, they may appeal to a higher grade of

court. Sometimes if the worsted party is considered unreasonable and contumacious, he is imprisoned for a time to compel him to "eat tea," and accept the court's decision. The oath ordeal is often proposed by one of the parties themselves.

The Burmese are a very religious people and regard an oath with some dread. They are not litigious or quarrelsome; and thus A often says, if B will swear to his version of the story, I will be satisfied.

There are three other forms of ordeal. In one, two candles, one for each party, of equal size, and with equally thick wicks, are solemnly burnt on an altar in a temple, the deity having been first invoked, and the party is worsted whose candle goes out first. In another each man's fore-finger is wrapped round with feathers so as to leave the tip exposed. The fore-fingers are plunged in molten lead and then tied up for a few days. If one party is injured and the other is not, the former loses. If there is difficulty in deciding which is more hurt, the fingers are pricked and the flow of serum from the one finger and not from the other determines the point. The third kind of ordeal is by water. The two parties go into sufficiently deep water, and their heads are pushed down with poles. He wins who can remain under longest. At the present time it is allowed to undergo this and, I suppose, other ordeals by deputy—a permission which seems to detract a little from their value; but indeed they are not often resorted to. When Crawford visited Ava in 1826, however, this could hardly have been the case, for he gives details of the various fees payable to those who assisted at the ordeals. Fees and presents were, at least in his day, so common, that to take a man to court was to inflict a grievous injury on him. And, indeed, in the present day too, the word "case" or "suit" has the same significant annotation he ascribes to it.

The revenues in Upper Burma are collected, according to all accounts, without any difficulty by the Government. The principal tax is the house or family tax. In British Burma all householders in a village, rich and poor, pay the same tax. The reverse is the case in Upper Burma. The tax is assessed by the Mandalay authorities in accordance with what they consider the householders can afford to pay. In fact, in theory, it is an income tax. This system Mr. Pilcher seems to approve of. "In fertile, prosperous tracts of country within easy reach of river communications, the highest rate prevails, and in proportion as a district enjoys these and the like advantages in a less degree, the rate is lighter." Thus he points out that the subjects of the king of Burma enjoy "political freedom." But do they? As far as I can ascertain from men who know the country well and have lived among the people, this system is thoroughly

bad, as it leaves loopholes for all sorts of extortion and tyranny on the part of the local authorities who are charged with collection of the taxes. The Burmese themselves say, "it is no use to become rich—if you do, the king takes your money." For this reason, and mainly for this reason, I opine there is not a vestige of enterprize amongst the subjects of His Majesty. To their natural apathy is added the belief that they will not be allowed to hold any money that they may accumulate: consequently they never try. All the contracts, &c., which are done at Mandalay, are in the hands of natives of India, and Chinamen, who come under the head of "foreigners;" and thus do not come much into contact with the Burmese governors. According to Colonel Yule, there are numerous exemptions from the above-mentioned tax. On account of military service, as mechanics, for personal service, in forwarding despatches, as tillers of royal domains, &c., &c. The tax on agriculture, the same writer says, is generally levied in kind. So many bags of rice go to the Government officials, and in some cases, pepper, onions and other vegetables. This tax amounts to as much as forty per cent. in certain districts, but generally not more. Mr. Pilcher says that the land tax has practically ceased to exist.

The military resources of Upper Burma are as they were when I visited the capital in 1871. My report will be found in the Journal of the United Service Institutions of England and India and in the Intelligence Department Report on Burma. From what I observed at the time, I wrote the following: "Big guns were numerous but were in an unservicable condition, and I was informed that there was no ammunition, but that in case of war, plenty could be obtained. There were no trained gunners. There were a couple of thousand stands of arms—old muskets, rifles and double barrelled guns all mixed up together in the arm racks. They were rusty, and shamefully kept. The palace was guarded regularly by sentries, who strolled about or squatted under the verandahs, and appeared too lazy even to be attracted by the brilliant uniform of my companion—an officer in the Indian Navy. I should say that the king could not assemble more than 3,000 trained soldiers for the defence of the place, but of course this number would be supplemented by raw levies raised in the vicinity of the capital and drawn in from the country. There is no cavalry to speak of, the country not being suited for their use.

I really don't think there is much more to be said on the subject of king Thee Bau's fighting power. I have several written opinions before me, and have lately received verbal opinions from those who have recently been in Upper Burma; but they all differ. Some say the king has 30,000 loyal followers—others



that he has only a few hundreds. The fact is there is little or no regular army, and His Majesty's defensive power would depend, in case of need, on his own popularity with his subjects and the activity of his enemy in bringing about early successes.

I will now refer to the physical features of Upper Burma, as far as my knowledge goes. It would not be wide of the mark to say that the rule of the Burmese King was limited to both banks of the Irrawaddy, from the British frontier to Bhamo, a distance, roughly speaking, of four hundred miles of river, navigable for steamers during a considerable portion of the year. Inland, the country is for the most part thickly clothed in bush, hilly, rocky and sparsely populated. I will quote from my own report :—

"The town and fort of Thayetmyo is the most northerly point occupied by British troops. The river here is about a mile-and-a-half in width at the end of the monsoon, of which time I write, but much less in the dry weather, and the current is at all times powerful. Travelling northwards a lofty range of hills lines the left bank for some fifteen miles, when it takes a westerly direction. The east bank is low and covered with thick jungle. Many villages appear on both banks, but there is no sign of extensive cultivation. From this point, until the town of Mengla is reached, the course of the stream, divided into two channels, is twisting and irregular—the banks lofty and wooded. The Burmese made a stand here in the war of 1826. A few miles north of this town another stand was made by the Burmese, who erected a stockade on the neck of land formed by the junction of the Irrawaddy and the Yen river. The next places of importance are Mugway, on the left bank, and Memboo on the right, both considerable towns. The height surrounding those places are thickly studded with white pagodas. Memboo is the nearest point to the Arug pass which leads over the Arakan Hills into Arakan. Twenty miles further north is another pass, which General Morrison tried unsuccessfully to cross with his army in 1826.

Ye-nan-Jioug, situated in an inlet of the great sandstone cliffs is celebrated for its petroleum wells. The character of the country now changes; the thick jungles disappear, and the country has a parched and inhospitable appearance. On the left bank is the site of the ancient sacred city of Pagan—a space of seven miles in length and two in breadth, being literally covered with the ruins of pagodas and temples of every conceivable shape and size and in all stages of decay; these remains point to the fact that this city must have been at one time the centre of a populous and wealthy district. It was at this place that the Burmese made their last attempt to check Sir Archibald Campbell's force in 1826.

The river here is about three miles in width and continues to flow due south from a point fifty miles north of Pagan. Here the course of the stream is westwards and after steering an easterly course for a few miles, the upward bound traveller comes in sight of the ruins of the ancient capital which has given its name to the kingdom of His Majesty of the "Golden Feet."

Nothing now remains of Ava but crumbling walls, rotten stockades, and shapeless mounds of earth which once were parapets. It is strongly situated by nature, being surrounded by water on three sides. Opposite Ava, embosomed in a thick wood, lie the ruins of Tsagain, another ancient capital. Next, a few miles northwards, we come in sight of Amarapura, the late capital, only discarded by the late King in 1858. The wall and ditch which formed the defences of the city still remain in fair preservation, but the place has been almost entirely deserted by the Burmese and is chiefly occupied by Chinamen. Mandalay, some seven miles further north, is the present capital of Burma, and is situated about two miles from the river's bank, at the foot of an isolated hill 600 feet in height, and now crowned by several Buddhist temples. The city is laid out in a perfect square, the sides of which run due north and south, east and west, and are, as near as possible, one mile in length. It is rendered secure against attack in the following manner: \*

A solid brick wall, about 25 feet in height, and 3 feet in thickness surrounds the city; behind this an earthen parapet about 30 feet thick has been thrown up, which being raised to within four feet of the top, is allowed to slope away towards the interior, no revetment being attempted. There is little attempt at flanking defence at intervals of about 150 paces, buttresses protruding, while at the angles two of these meeting have something the form of a bastion. The wall is not loopholed or provided with embrasures for guns, the top being crenellated after the fashion of our ancient castles. Each of the four sides of this wall and rampart is provided with three gateways constructed of masonry of immense thickness and solidity. The gate, which is in the centre of the passage, which is about fifteen feet in width, is of teak and studded with iron nails, and is about twenty feet in height and one in thickness. All the twelve gateways are similar in construction, and are protected on the outside by traverses of solid masonry so placed as to completely cover the passage. A moat of about a hundred feet in width and six or seven in depth encircles the city: the escarp of the ditch being cut at about sixty feet from the wall, leaving a fine road between. This moat is kept full of water

\* Since this was written the Burmese have constructed an embankment near the river which would now probably be their first line of defence.

all the year round. There is one bridge across this moat on the south, east and north sides, and on the west side two. The roads inside the city are wide but un-macadamised, being much broken up at places. They run in the same direction as the walls, dividing the city into rectangular blocks of houses.

In the centre of the city is the palace. It is about three hundred and fifty yards square, and surrounded by a stockade about twenty feet in height, constructed of teak stakes, nine inches in diameter, firmly bound together by bars of the same wood passing through them horizontally. The palace is divided into three enclosures. There is a brick wall inside the stockade, then an esplanade of considerable width, then another brick wall, when the inner enclosure is reached. There are three entrances to the palace; the main, and only public one, being situated in the centre of the east side; the two smaller ones are near the eastern ends of the northern and southern faces. The reception hall of His Majesty is remarkable for its barbaric splendour—gold-leaf and dirt being mixed up indiscriminately. The whole of the arms, ammunition, &c., are stored in the inner enclosure. The inhabitants of Mandalay number about twenty thousand within the city and three times that number without; the population is made up of Shans, Siamese, Chinese and Burmese, supplemented by natives of India, Munipoor and Chittagong. During the reign of the late king there were said to be twenty thousand phoongees in and around the city. From the isolated hill on the north-east corner of the city a fine view is obtained of the surrounding country. At your feet is the square city with its interminable suburbs spread out like a panorama; the Shan mountains to the west, the Tsagain hills to the east; the windings of the mighty river between, with its numerous islands, its quaintly-shaped boats and temple-studded banks, is a sight once seen, not easily to be forgotten.

The Isagain hills contain quantities of valuable marble, and continue to follow the course of the stream northward for about fifteen miles, where they die off into gentle undulations. At the foot of these hills lie the remains of the famous Mengoon pagoda—one of the largest masses of solid masonry in the world. Here also is an enormous bell, said to be the largest in the world, after that of Moscow cathedral. It is ninety tons in weight or fourteen times as large as the great bell of St. Paul's.

Still northward bound we leave on our right the fertile district of Madara, whence most of the fruit and vegetables consumed in the city are obtained. To the westward the country is undulating and clothed in dense woods. On the east bank is a small town, Singu-myo, whence a road leads to

the principal ruby mines. The stream here becomes contracted to from three hundred to four hundred yards across ; the banks are high and covered with forest. There is little or no cultivation, even in the vicinity of the villages, while the numerous fishing apparatus that may be seen along both banks denote pretty clearly that the inhabitants trust to the finny tribe for subsistence. The hills in the neighbourhood are said to contain gold, silver, and precious stones. Extensive mines lie about thirty miles to the eastward.

The "lower defile" cleared, the stream once more widens out, navigation becoming no easy matter in consequence of the sandbanks and low sandy islands. The villages here are small and the absence of pagodas marked.

Tagoung and old Pagan were once royal cities and some of the old walls, &c., still remain. Above these places the Irrawaddy is joined by two considerable rivers, the Shwe-lee and Delain and the banks continue to be low and swampy until the southern end of the second defile is reached. Near here is the sand island of Shwegoo, held in great veneration by the Burmese and positively a forest of pagodas. The scenery throughout the second defile is exceedingly picturesque and striking : precipitous rocks, three hundred feet in height, and clothed in thick bush, tower over head, while the navigation of the great river, confined to a narrow bed, hissing, boiling and foaming itself into huge eddies, becomes a matter of no small difficulty.

After a prolonged struggle the brave little steamer beat the foaming torrent, and we emerged on to a broad lake-like expanse of water on the eastern shore of which Bamo, our destination, appeared. I landed and made a sketch of the place. It could never have been of any importance or population. It was surrounded by a stockade on the land side, and a considerable portion of the town was occupied by Chinamen : Bamo is in lat.  $23^{\circ} 55' 23''$ . The suburbs outside the town extend for some distance along shore, the residence of the British Political Agent, now building, being on a knoll at the northern extremity.

The confluence of the Taping with the Irrawaddy takes place a couple of miles above Bamo. This river, rising in the mountains, far away to the north east, passes through a gorge at the head of the Sanda valley, then finding its way through the Kakhen mountains, pours over a rocky bed, and finally assuming the proportion and character of a large river, empties itself into the Irrawaddy. It is only navigable for about twenty miles, after which are rapids.

The proposed trade route about which so much has been written "Through Burma to Western China," follows for some

distance the course of the Taping. Two expeditions under Sladen and Browne, have started along this route. Colquhoun and Gill, if I mistake not, also passed through this country.

The opening up of this trade, which will some day come off, will have the effect of transforming the Irawaddy into a second Mississippi, and Rangoon into an eastern New York. I fear the above essay does not give a very satisfactory account of a state which has, for so many years, closely adjoined our eastern possessions. But I don't know that there is much more to be said. I have been in communication, both verbally and by letter, with the best authorities, and I have found out nothing much worth recording. Rumours, much exaggerated are rife. "The king's authority," they say, "does not extend outside the city walls." Meanwhile the Flotilla steamers are not molested and the frontier is quiet. The Burmese from Upper Burma continue to flock into British territory. They say themselves they are not happy there; but then a Burman always says what he thinks will please his hearers. I have never heard anyone, English, Burman or Shan say that the present regime was a good one. Would it be wise, politic and humane for some great civilising power like England or France, who already possesses lands contiguous to this country, to take under her protection these three millions of cheery little, brick-coloured folk and to help them to govern themselves?

This is an important question and one which it is the province of the statesman and not the soldier to decide.

THAYETMYO, }  
*September 1885.* }

EDMOND C. BROWNE.

### ART. III.—BUDDHA AS A MAN.

THE immense popularity attained in recent years by Buddhism, is one of the queerest freaks of the nineteenth century. That system of religion is associated with a body of science ludicrously false, a mythology grotesque and wild, a philosophy fanciful and dreamy, and a morality austere and sombre. It is, therefore, at war with the dominant traditions, the characteristic tendencies, and the approved principles of the age; and yet in spite of all this, it is rising in public estimation more than almost any scheme of thought or principle that can be named.

If any feature of the age may be characterized as distinctive and differentiating, it is admittedly its appreciation of correct, and contempt of false science. Scarcely any system of religion can be named, which is more thoroughly saturated with false science than Buddhism. That religion has incorporated with its substance, or transferred to its documents almost wholesale, the tissue of puerility and absurdity which has in our benighted country been mistaken for science. Its geography is an edition scarcely revised and improved, of the fictitious geography embedded in Hindu literature; and like its older sister or mother, it speaks of world-systems, mountain-ranges, continents and oceans—all clustering around a mountain-peak higher than the sun, moon and stars—which have no existence whatever apart from the dreams of a diseased imagination. Its geology or physiology is of a piece with its geographical fictions, fraught with the wildest flights of the most ill-cultured, undisciplined imagination. And as to its astronomy,—why in the records translated by Spence Hardy in his well-known “Manual of Buddhism,” we are treated to such bits of information as are embodied in the following extract:—“The disk of the sun is fifty yojanas (400 miles) in diameter, and (150 miles) in circumference; within, it is composed of coral, and its surface is of gold; so that both its surface and inner material are extremely hot. The disk of the moon is 40 yojanas in diameter and 147 in circumference; within, it is composed of crystal, and its surface is of silver; so that both its surface and inner material are extremely cold. The path in which it moves is about a yojana lower than that of the sun,” Nothing is considered in this age more objectionable than the presentation of such dreams as verities of science; and yet a system, which commits such solecisms with a vengeance is growing in popularity!

A proper appreciation of history, in conjunction with a supreme contempt for legendary lore, is one of the characteristic tendencies of the age. No system of religion shows more

contempt of history and greater appreciation of fable than Buddhism. Its mythology is in wildness and extravagance scarcely surpassed by that embodied in the sacred literature of the Hindus, confessedly the most imaginative and dreamy people on the surface of the globe. Like their mythological lore, it speaks of untold ages of past history which never existed, of innumerable orders of ethereal beings and infernal monsters which are mere creations of a diseased imagination, of gods who clear millions of miles across land or water or through atmospheric spaces in the twinkling of an eye, of frightful goblins who when excited lift up huge mountains and hurl them at their enemies, of birds and snakes of portentous size and fearful proportions.

The following is a description of an Asura or giant given in the records already alluded to:—"Rahu is 76,800 miles high; 13,200 miles broad across the shoulders; his brow measures 800 miles; his mouth is 3,200 miles in size and 4,800 miles deep; the palm of his hand is 5600 miles in size; the joints of the fingers 800 miles; the sole of his foot 12,000 miles; from his elbow to the tip of his finger is 19,200 miles; and with one finger he can cover the sun or moon, so as to obscure their light." Our enlightened age represents Christ as mistaken because He spoke of angels; but its veneration for Buddhism grows apace, although its angelology and demonology are characterized by an extravagance to which the history of wild fiction scarcely affords a parallel!

Our vaunted age, though propitious to a scientific classification of the varied faculties, powers and susceptibilities of the mind is apt to look down on metaphysical or ontological speculation with supreme contempt. But Buddhism has, intimately associated with it, a body of such speculation, forming the substratum or ground work of its moral teaching and religious exhortation. All creation is traced to quasi-metaphysical or quasi-physical phantasms, such as Avidya or Ignorance, Karma or Work, Abaukara or Universal Ego, Upadan or Lust of Life. Confining our attention for the time-being to one of these inconceivable entities or non-entities, Karma, what marvels are ascribed to it! According to Buddhism man is a congeries of material properties, which are disintegrated and dispersed as soon as he dies; but the subtle power emanating from his Karma, or the aggregate work he has performed in an almost endless series of transmigrations, stands in the way of his perishing for good. This non-descript force conjures up conglomerate after conglomerate of new elements and qualifies to receive merited reward and condign punishment, and thus prolongs his existence, without however perpetuating his personality! But the chain is not everlasting as it ends in the annihilation from which it originally arose. Can anything

prejudice a scheme of thought in these days of positive science more than such assumptions and such absurdities? And yet in spite of these, Buddhism is becoming popular!

And lastly a scheme of morality at variance with the materialistic tendencies of the age, or its intense love of present enjoyment, is sure to be held at a discount in the most advanced countries of the world. But Buddhism admittedly presents only such a scheme of morality. Based on its assumed doctrine of the impermanence of all things, it scowls upon all carnal pleasure, however innocent or legitimate, deprecates domestic life and esthetic culture, inculcates self-immolation in the literal sense of the term, and recommends ascetic seclusion as the only condition favorable to growth in virtue. A large code, moreover, of dietic rules and sumptuary laws is framed to enthrall the devotee, or circumscribe the sphere of his lawful liberty. And, to crown all, we have in Buddhist records, precept upon precept fitted to substitute for the feverish activity of civilized life the spirit of passive contemplation and insensible repose. It is very difficult, if not impossible, to explain why people immersed in the business or pleasure of life should fall in love with a morality so unsocial and unearthly!

The immense popularity of Buddhism is, therefore, a phenomenon which at first sight it is hard to explain. But a close examination of some of the collateral tendencies of the age may lead to a rational explanation of this as of every other freak of the nineteenth century.

The growing popularity of Buddhism should in the first place be traced to the charm thrown around it by learned orientalists. These scholars have a disease similar to what is ascribed to biographers by Lord Macaulay, *viz.*, that of bestowing indiscriminate praise. They devote years of patient toil to the study of oriental literature, and they most naturally develop a partiality to it; and like a fond mother they refuse to see in their pet child, defects and imperfections, freaks of thought and vagaries of speculation, which are too patent to be overlooked by the public eye. And where the faults of diction and sentiment are too obvious to be overlooked even by them, inclination or love leads to varieties of attempts on their part to explain them away, whitewash them, or even to render them plausible by means of specious theories. And besides they are guided by a disposition, more kindly than just, to give prominence to the features which take in civilized lands, throwing those which are repulsive into the back ground. Buddhism has doubtless some features of excellence along with, or concealed in, a mass of puerility and absurdity; and these have been disentangled, sifted, and presented in an attractive garb. And



superficial readers and thinkers, who study any subject, with the precipitancy with which they write short business notes, are apt to look upon such features as the head and soul of a living scheme of thought, not the accidental appanages of a system rotten to the very core. Some heavy books, and a great many light ones, have of late been written on the subject; and these have contributed to extend the popularity of Buddhism by a presentation of views more or less one-sided, and an incorporation with its substance of ideas and sentiments, which, though in vogue in civilised countries, are entirely foreign to its genius and tendency.

Buddhism, moreover, has been popularized by a class of *doctrinaires*, who look upon it as fitted to uphold a pet theory of theirs, *viz.*, the theory of development as applied to the religious history of the world. These theorists are opposed, heart and soul, to a supernatural revelation; and they are anxious to prove that Christiaity has been evolved from pre-existing types and tendencies of religious thought. They imagine that they have discovered the missing link between the pure monotheism of Christianity and the gross polytheism of non-Christian lands in Buddhism in which they pretend to discover the germs of the characteristic ideas of our holy religion. And they have been sedulously spreading, by means of able but one-sided publications, a knowledge of the bright features of a system, which, presented in all its entirety, would be a centre of expulsion rather than attraction.

And lastly, the infidel world in general, has seized this system as a weapon which may in its opinion be effectively directed against Christianity. The champions of the varied forms of infidelity may not regard the system with real, in contradistinction to feigned, sympathy or admiration. Nay they may laugh in their sleeves at its growing popularity; but the opportunity afforded by it of a new base of hostile operations is too good to be thrown away unimproved!

It is our intention in this and two succeeding papers to show that the exuberance of admiration and praise lavished on Buddhism in these days is misplaced. We maintain, and hope to be able to prove, that the great founder of this system, Buddha presents in some respects a grand, but, all things considered, a sadly mutilated character, and that he was egregiously mistaken both as a moralist and as a philosopher.

"There is sad stuff" said King George III "in Shakespear: but one would be stoned for saying so." Our determination to represent Buddha, as he was, not as the hero of a mass of romantic literature, nor as the idol set up in these days on the throne of morbid sentimentalism and theoretic

admiration, is sure to lead to our being stigmatized as exceedingly bigoted ; but we have counted the cost. And, therefore, let us in this paper boldly call attention to Buddha as a Man.

The main features of the career of this great reformer are so well-known in these days, that even a cursory recapitulation may justly be represented as superfluous and uncalled-for. But a brief sketch of his life or career ought to be presented as the text of the few remarks we have to make on its glaring defects, as well as its characteristic excellencies. It is a fact, now universally admitted, that the existing records of his life, whether Northern or Southern—whether Nepalese or Chinese or Ceylonese, or Burmese or Siamese—are so interlarded with or overridden by mythological extravagance that the kernel of fact—to adopt phrases made popular by Strauss—can scarcely be extricated from the husk of grotesque fiction. But there are a few points in which these varied treatises, written in different places and under diverse circumstances, are agreed ; and these may be presented—indeed have been presented—as the groundwork of a life which modern criticism would relegate to the region of mythology and fable.

Between five and six hundred years, according to a system of chronology received on insufficient grounds, before the birth of Christ, Sakya, who afterwards became the Buddha or fully enlightened, was born of royal parentage in the city of Kapila-vastu, about a hundred miles north-east of Benares. Nothing almost is known about his early life, his childhood and youth, besides the fact that his royal father, Suddhodana, warned by a body of astrologers met in solemn conclave, not only brought him up in regal pomp and luxury, and strove hard to keep him out of sights fitted to nourish the noticeable pensiveness of his disposition. He certainly was educated as a prince under the best of masters ; but the existing biographies present no glimpse of his mode of education, or of the peculiar powers of head and heart developed under its influence. But the reproach universally accepted of his love of retirement, and consequent aversion to the martial adventures and sports of his race, makes it plain that in the midst of luxurious repose he was melancholy and sad. He was early married, according to some accounts, to one, but according to others, successively to three wives ; and his mode of life indicates a wavering between voluptuous self-indulgence, marred perhaps by no vice in the generally accepted sense of the term, and meditative pensiveness.

When about thirty, he noticed, despite the precautionary measures adopted by his father, human sorrow in some of its most impressive forms, and the train of thought suggested

gave a new turn to his life. In the accounts given of what is called his "Great Renunciation" the supernatural element is presented in profusion; and the help of an invisible spirit, a philosophic charioteer and a conscious horse is resorted to. On three different occasions, as he goes out of his well-guarded palace in quest of pleasure, he sees three tangible forms of human suffering conjured up by angelic influence, an infirm and shrivelled old man bending under the weight of years, a sick person with a swollen body and contracted limbs giving vent to his distress in tears and groans, and lastly a corpse in process of putrefaction borne by four men in mournful state. These sights gave strength to his melancholy musings and they were strengthened when on a fourth occasion he was driving out, by the sight of an ascetic walking slowly in all the dignity of serene thought and conscious peace. Informed by his learned charioteer of the secret of the felicity depicted in the countenance of the devotee, he makes up his mind to renounce the world with all its pleasures, and seek the tranquillity of ascetic seclusion.

While in this frame of mind, he was seated on the banks of a stream in one of his public gardens, he heard of the birth of his first-born and only son, and immediately proceeded towards the palace, resolved, however, not to allow this new tie to stand in his way. The auspicious event had thrown the city of Kapila-vastu into rapturous joy, and as he passed through it he was everywhere received with demonstrations of welcome, such as might have shaken a purpose less firm than his; and the congratulations showered down on him, as he entered the palace, were even more thrilling. He resolved to see his child once, when the inmates were asleep, and then march forward, determined to seek in hermit solitude a remedy for his own, and for human sorrow. A deep sleep, brought on by supernatural power, overtook the princess, her maids of honor, and all appointed to guard the grand apartment and the ponderous gate. His object was accomplished—he gazed lovingly on the sleeping mother and the bright babe, stole out of the palace with his faithful charioteer, mounted his horse, who, conscious of the honor that awaited him as the bearer of the future Buddha, galloped faster than the rushing wind, and rode on and on, till he reached a safe retreat. Here he alighted, cut his luxuriant hair with his own sword, exchanged his royal robes for the yellow garments of an ascetic, affectionately took leave of his human companion, and his scarcely less human horse, and moved on, consumed as it were by a noble sorrow and a noble purpose. The charioteer Chhana wept bitterly, and the horse dropped down dead on the ground, to rise as a *deva* in some ethereal region!

Thus clad and equipped he marched forward, alone and absorbed in thought, towards Rajagriha, the capital of a kingdom, then considered great, in the eastern valley of the Ganges; but he had not gone far ere he was called upon to encounter and overcome strong temptations thrown in his way by Mara, the Satan of Buddhistic mythology. A worldwide empire, accompanied with all the splendour and luxury this world could offer, was assured him on condition of his giving up his toilsome search; but the tempting offer was rejected with perfect indifference, if not with utter scorn. But though foiled on this occasion, the tempter did not abandon him; but continued, it is said, with him, "cleaving to him like a shadow," and scrupulously improving every opportunity afforded of thwarting his noble scheme.

Rajagriha was surrounded by hills and forests, in the seclusion of which solitary mendicants and even small groups of hermits, might be seen engaged in meditation or in the practice of mortification and penance, their object being a solution of the problems of existence, and repose for their restless souls. Congeniality of spirit, as well as community of aim induced Sakya Sinha to resort successively to a few of these recluses for instruction and counsel; but finding that they had nothing in the shape of true knowledge to impart, he determined to work out, alone and unassisted, the great problem that so deeply engaged his thoughts. In this resolution he was encouraged by five ascetics, who became his disciples, and who placed their services at his disposal. With these new companions he retired to the forest called Uruvela, and devoted himself, heart and soul, to the practice of austerity for nearly six years, abstaining from every species of solid or wholesome food, and subjecting his body to every species of consecrated torture. This course of self-mortification had its anticipated result, and the enthusiastic sufferer was brought to the verge of the grave, but not a step nearer the solution of his great problem. Disappointed and chagrined, he gave up his devotion to penance to the disgust of his ascetic followers, who now forsook him, bathed in a sacred river, partook of some delicious food served by a female devotee, and walked to, and sat under the famous Bodh or Bo tree near Gya to complete the work begun and carried on under so many disheartening circumstances.

But when his budding wisdom was about to burst into a full-blown flower, his arch-enemy, Mara, made a desperate effort to oppose his complete emancipation from error and disquietude. He appeared on the scene, with his terrific army of horrid monsters, determined to disturb his serene contemplation; and his repeated attacks are described

with a profusion of imagery such as is never found anywhere outside the pale of oriental literature. The elements were let loose upon him, clouds surcharged with lightning lowered and thundered over his head, storms and tempests howled and roared, rain fell in dashing torrents; and when these disturbing forces disappeared, the malice of the enemy caused frightful conflagrations to rage around the devotee about to be beatified, and when all nature thrown into wild commotion had spent its rage in vain, the monster host hurled at him, not only their barbed arrows, but huge trees and even lofty hills lifted up by their demoniac strength. But the missiles fell as soft flowers on and around him. As a last resource the charming daughters of the enemy were instructed to effect by means of their blandishments, what so many violent measures had failed to accomplish, but even their meretricious arts, were fruitless. Sakya continued wrapped up in meditation till he was fully enlightened. He was then transfigured,—his body assumed a golden color, his face glowed with the light of indwelling peace, and his eyes beamed with compassion and benevolence.

He arose, bathed and refreshed himself, and, after a momentary struggle with a rising desire to evade the irksome duty of preaching the truth he had found, marched towards Benares, and arriving at "the Deer-Park" in the vicinity of the holy city, he preached his first sermon in the hearing of his five recusant disciples, and innumerable companies of heavenly spirits. The result was the conversion of his human and angelic hearers. His fame was noised abroad, and he succeeded during the first few years of his public career in gathering a band of earnest Missionaries around him; and with their help he preached his religion called the Law through the length and breadth of a large tract of territory in Northern India, gathered converts from both the sexes, and all classes and orders of people, organised societies of retired mendicants, secured property in the shape of groves and gardens in the vicinity of flourishing cities and towns, and made all necessary arrangements for the progressive development of a system of religion or morality destined to spread far and wide in Asia.

He lived about fifty years after his full enlightenment under the Bo-tree, and these years were seasons of unremitting toil as well as peaceful enjoyment. He lived in retirement, along with a company of chosen disciples, in sequestered groves, apart from the din of city life, and even the hum of rural townships and villages; and as a

rule he preached to enquirers who resorted to him for instruction, or to audiences gathered around him in the private mansions and houses to which he was invited. His mode of life was simple, and his activity was of the oriental type, even and calm, not feverish and boisterous. He spent the greater part of the year in travelling on foot from place to place, preaching constantly, and doing all the good in his power in season and out of season; and he spent the rainy season, the four months between June and October, in a resting place, improving it, however, by delivering some of his long discourses, and framing rules and regulations for the permanent guidance of his Order. His death occurred at Kusinagara, graphically described in the *Maha-Parinibbana sutta* recently translated by Rhys Davids. This small treatise is a narrative, written in a highly artificial style, as all narratives in connection with the rise of Buddhism are, of a journey of three months' duration undertaken by Buddha from Rajagriha to Kusinagara; and it shows that the last days of the reformer were spent in efforts to mature and consolidate the great work of his life, and to exhort the most favored of his disciples to industry and perseverance in the discharge of their duties.

Such is a brief sketch, by no means very reliable, of the life of Buddha, as exhumed from the heaps of rubbish under which it lies buried in the existing records! That he was one of the loftiest characters, perhaps the loftiest character matured in the dim twilight of natural religion, or apart from regions blessed with the light of revelation, is universally admitted. But such praise appears feeble and tame to his modern panegyrist, who would represent him as a perfect model of virtue, and even place him on a par with the Lord Jesus Christ. Nay, there are thinkers or pseudo-thinkers in our country who would even place the Indian reformer *above* the Prophet of Nazareth as an ideal of character. But setting aside these opinions, the tendency noticeable in some quarters to hold up the two characters as of equal excellence ought certainly to be represented as occupying the foremost place among the vagaries and extravagancies of the age.

The author of the most charming English poem on the life of Buddha, Edwin Arnold,—who, as he often speaks of dark-eyed Indian maids being captivated by the fascinating exterior of “the Light of Asia,” may justly be accused of carrying into sacred subjects the frivolity for which Renan’s *Life of Christ* is condemned by all sensible men—expresses his enthusiastic

admiration of the reformer's character in these words:—"More than a third of mankind therefore, owe their moral and religious ideas to this illustrious prince, whose personality though imperfectly revealed in the existing sources of information, cannot but appear the highest, the holiest, the most beneficent, with one exception, in the history of thought. Discordant in frequent particulars, and sorely overlaid by corruptions, inventions, and misconceptions, the Buddhistical books yet agree in one point, of recording nothing—no single act or word—which mars the perfect purity and tenderness of this Indian teacher, who united the truest princely qualities with the intellect of a sage, and the passionate devotion of a martyr." That this is extravagant praise may be easily shown by a simple reference to the wide gulf that separates the character of our Lord from that of Buddha.

Believing as we do in the Supreme Divinity of Christ, we are most unwilling to place Him, even for the sake of argument, in juxtaposition with a mere human teacher; however long-standing and widespread his fame may have been, and however deep the veneration his name may now evoke. But the challenge comes from the camp of the enemy and we cannot but accept it. And so for the benefit of those of our countrymen who may have been misled by reckless commendation, we would institute a comparison between the two characters, and set forth the impassable chasm between the one and the other.

(1) And first let us observe that, while Buddha is a mythus, Christ is an historical character. Every event in the life of the Indian reformer: his birth, his renunciation, his transfiguration, his preaching, his death, is related at tedious length, and in a highly artificial and poetic style; and when we pass from the embellishment, the exaggeration and the pure fiction heaped upon his life in the existing records on to the majestic simplicity of the Gospel narratives, we cannot help feeling that we are moving from the region of legend and fable to that of reliable history. As a specimen of the high-wrought, turgid style in which the existing biographies are written, we give Asvaghosha's description of Buddha's countenance when he made up his mind to seek *Nirvana*, as translated by Beal, and presented in his "Buddhism in China:—" "His body as a peak of the golden mountain, his shoulder like the elephant, his voice like the spring thunder, his deep blue eye like that of the king of oxen, his mind full of religious thought, his face bright as the full moon, his step like that of the Lion King \* \* \*"

Add to this what Wilson, as quoted by Spence Hardy in his "Legends and Theories of the Buddhists," says regarding

Buddha's birth :—" In a paper I published many years ago in the " Calcutta Quarterly Magazine," I gave a list of thirteen different dates collected by a Tibetan author, and a dozen others might be easily added, the whole varying from 2,420 to 543 B. C. They may, however, be distinguished under two heads, that of the Northern Buddhist, 1,030 B. C. and that of the Southern Buddhist for his death B. C. 543."

The difference, then, between the character of Christ and that of Buddha is that, while the one was depicted exactly as it appeared by contemporary biographers, the other owes a great deal of its charm to that retrospective veneration or mythopæic spirit which presents the heroes of a bygone age shorn of their real defects, and adorned with chaplets of imaginary virtues.

(2) Again Buddha's boyhood and youth were spent amid that languor of satiety against which his subsequent life may justly be represented as a natural reaction. His father, anxious to defeat what appeared to him the gloomy element in the prophecy uttered by his astrological advisers, brought him up in a well-guarded palace of luxury after the fashion in which Dr. Johnson's imaginary hero, Rasselas was brought up; and the existing records make it plain that, for a time at least, he oscillated between varied acts of self-indulgence and the melancholy broodings by which such acts are invariably followed in the case of a man of lofty thought and pensive disposition, such as he was. The restlessness he discovered amid the voluptuous enjoyment of his palace, and during the period of his eager search for a remedy for the evils of life, bespeaks some degree of self-indulgence, though on the whole of what is ordinarily called an innocent character. His great temptation, when about to be transfigured, tells the same tale.

To show this, let us accept the explanation of Christ's temptation given in *Ecce Homo*. Christ after His baptism became suddenly conscious of the possession of supernatural powers; and He was tempted by the Evil One to employ them in His own service. His temptation, then, proceeded, not from a word or deed of His past life, not from a wrong thought cherished or even a right thought cherished to an improper extent, not from an element of His nature weakened by undue indulgence, but from a consciousness suddenly and unexpectedly realized in His mind. Buddha's temptation, on the contrary, barring the fictitious account of external violence by which it is overlaid, indicated a weakness in his nature generated by undue self-indulgence. It appeared in the shape of beautiful women endeavouring by meretricious tricks to draw him towards a renewed indulgence of the erotic passions which had once clamoured, and clamoured



not in vain, for gratification, but which were now held in check, not certainly immolated, by the severity of self-oblivious contemplation. As an address to an element of his nature weakened by self-indulgence, it was an index to the vitiating influences of the life of voluptuous ease he had spent in his father's palace.

Buddha's entire attitude towards women indicated the same super-induced weakness. This will have to be treated at some length when his unsocial code of morality is analyzed and sifted. Suffice it to remark here that he carefully avoided, and taught his followers to avoid with scrupulous care, any thing and every thing approximating to a pleasant intercourse between the sexes. His own conduct, in conjunction with the rules devised by him to make his disciples averse to friendly contact with the members of the softer sex, indicated in him an abiding fear, which cannot be accounted for except on the supposition of previous self-indulgence on his part.

And lastly the eagerness with which he rushed to the extreme of self-mortification is fitted to show a reaction against the other extreme, that of self-indulgence. What could so easily have driven him to the extreme rigor of penance, as a settled dissatisfaction with luxury, a recoil from voluptuousness, a disgust with satiety?

(3) But even setting aside the conclusion sustained by these reasonings, the fact remains that Buddha was restless under his paternal roof, and that his escape therefrom was prompted by a desire to seek peace, first for himself, and then for the whole world. He is, indeed, represented in some records to have said to his faithful charioteer, Chhanda, that he sought "no personal gain or profit," and that he sought "solely the benefit of men." But as no one could, according to his belief, be happy without the four truths he found under the Bo-tree, his indwelling disquietude so long as he was not in possession of them, is a corollary from his entire scheme of thought and teaching. Besides in the *Maha-Parimbbanna sutta* or the "Book of the Great Decease"—translated along with other Suttas by Rhys Davids and published in vol. XI of "Sacred Books of the East,"—he confesses his own miserable wanderings in these words:—"There the Blessed One addressed the brethren and said: 'It is through not understanding and grasping four truths, O Brethren, that we have had to run so long in this weary path of transmigration—both you and I.'"

Now what does the restlessness of a human soul imply? The presence therein of some disturbing element in the shape of error and sin. A soul free from the slightest touch of error and sin cannot possibly be restless; or, to express the same truth in another form, a soul in perfect possession of truth

and holiness, or of truth rightly apprehended by the mind and properly assimilated by the heart, cannot but be calm and restful. The moment we recognize some degree of perturbation in the heart of Buddha, we ascribe to him some degree of intellectual obtuseness or moral perversity. What a difference in this and other respects between the first portion of Buddha's life and that of Christ! In our Lord we see a holy childhood naturally developing into a holy youth, and that again into a holy manhood. As a child, He might not have been omniscient, or even gifted with a miraculous precocity or an extraordinary measure of erudition; but He had all the knowledge, all the purity and all the holiness needed to constitute spotless, perfect childhood. As a young man he was in possession of all the objective truth and all the subjective excellencies of head and heart needed to constitute immaculate, perfect youth. During the long years he spent under His paternal roof, as during the period of His public career, he lacked nothing necessary to make him an ideal of virtue,—no consciousness of imperfection troubled him for a moment, no feeling of unsatisfied intellectual or moral want oppressed him, no act of undue self-indulgence clouded His judgment or disquieted His heart. Perfect knowledge ruled His mind, and perfect holiness, accompanied with uninterrupted sunshine, reigned in His heart.

(4) The way again, in which Buddha stole away from his well-guarded palace indicates on his part a want of manliness in marked contrast to the moral courage he showed when on a subsequent occasion he revisited his native city, and in the yellow garb of a mendicant went from house to house begging within the very environs of his father's palace. The treatise on the "Manliness of Christ" written by the well-known author of "Tom Brown's School Days" is marred, as almost all modern versions of His Life are, by fanciful explanations of the most objectionable character of some features of His unique career; but it is eminently fitted to show that on no occasion, great or small, did our Lord evince the slightest approach to unmanliness or weakness.

(5) Again his sudden rush to and recoil from the extreme of self-mortification and penance constitute an irrefragable argument, not only against the purity of his early life, but against his balance of mind and force of character. Had his intellect or character been sufficiently well balanced, he would not have spent six live-long years in adopting and abandoning, one after another, a few, if not many erroneous methods of arriving at truth. In contrast to this, we do not find in the Life of our Lord a single mistake entertained and forsaken, a single step made and retraced, a single experiment tried and then thrown up as useless.

(6) Again the hesitation Buddha showed in admitting women to his order, a hesitation removed by arguments brought to bear on it by one of his most favored disciples, bespeaks a weakness the like of which the world has failed to discover in Christ. No excitement and no hesitation were ever manifested by our Lord during the entire period of His Life, not even during the time when His enemies tried to decoy him into an unguarded expression by an array of searching questions, and when failing in this they subjected him to a series of irritating annoyances and cruel persecutions.

(7) But that which shows the greatest flaw both in Buddha's mental constitution and in his moral nature, is the atheistic or agnostic conclusion at which he arrived. His atheism was, in Professor Blackie's phraseology, the atheism of reaction, not the atheism which springs from defective intellect, excessive depravity or want of reverence. The tissue of wild speculation indulged by the philosophers of his time whenever the subject of the origin of the world was on the tapis, could not, of course, satisfy his inquisitive and earnest mind; but instead of being brought down by a natural reaction to the fundamental truth written, as it were, on the tablets of his own heart, and buried beneath heaps of rubbish in popular belief, he allowed himself to be driven by an unnatural reaction to the extreme of atheism or nescience. Such a revulsion of thought and feeling is an indication of an obliquity of disposition as well as an erratic move of the mind. And the man, who passed through a variety of extremes, and who ultimately settled down into atheistic disbelief or agnostic nescience, is represented by Blackie in his "Natural History of Atheism" as "a rare, exceptional, and altogether transcendental incarnation of moral perfection." It is this species of morbid sentimentalism that is killing the Church in these days!

Buddha can be held up as an ideal of ascetic self-control, not of any virtue or excellency above it. He was always calm and self-possessed; and he never betrayed the slightest freak of appetite or passion. Nor is this to be very much wondered at, inasmuch as his virtues were displayed under the shade, so to speak, of monastic seclusion, not in a furnace of trial. He was universally honored as a self-sacrificing, self-controlling devotee, and never persecuted in the proper sense of the term. The recorded persecutions to which he is said to have been exposed are really not worthy of mention. His father-in-law curses him for abandoning his daughter, but he is instantaneously swallowed up by the earth like Dathan and Abiram. A hunter in a fit of disappointment attempts to shoot him but an angel stands between the aggressor and the accomplishment of his vile purpose. Dewadatta, the Judas of Buddhistic records, attempts

more than once to assassinate him, but all his attempts are foiled by some one or other fortunate circumstance. The Ceylonese records translated by Spence Hardy—which are assigned by Rhys Davids to so late a date as the twelfth century of our era—present a detailed account of an attempt to arrest him more systematically made ; but the aggressors are all destroyed in the twinkling of an eye by his supernatural power.

Far from being oppressed and persecuted, Buddha was in reality honored, and that universally. He was invited along with his disciples, oftener to the mansions of the rich than to the hovels of the poor ; and wherever he had his meal, "sweet rice and cakes" delicately cooked and respectfully served were as a rule placed before him. Once only we read of his having partaken somewhat freely of a dish of pork, and his death is said to have been hastened by what to a Hindu would scarcely be forbidden food, as the flesh was that of a wild boar, not of a filthy pig. And besides kings and noblemen, princesses and ladies of rank moved in all the blaze of gold and purple, each followed by a grand retinue of gaudily dressed retainers, towards the sequestered monasteries blessed with his presence, to hold religious conversation with him, to hear the law expounded, to have their troubles removed by sage counsel, or simply to pay him homage.

Buddha's freedom from persecution in conjunction with the honor in which he was held may at first sight appear an inexplicable phenomenon. But a known idiosyncrasy of the Hindu faith offers the required explanation. Hinduism has a popular and a philosophical side, and under its shade two, or two sets of antagonistic and mutually destructive principles exist and even flourish side by side with each other. Its popular side favours a rank growth of idolatrous worship, ritual punctitiousness and caste exclusiveness ; but its philosophy nourishes sentiments and traditions opposed to its garb of externalism and ceremonialism, and fitted to set forth its entire structure as a house divided against itself. Even now in our various cities, towns and villages, as well as in spots more secluded, small groups of philosophers or ascetics may be seen indulging in philosophical vagaries, and opposing in theory, as well as in practice, one and all the principles enshrined in popular Hinduism. These ascetics, called by various names in different parts of the country, represent varieties of views ranging between monastic self-immolation and Epicurean self-indulgence ; but they all concur in pouring contempt by their theory and their practice on the caste rules held sacred by the masses,—they laugh at their idolatrous worship, satirize their ceremonial observances, and openly speak of them as fools who must rise to transcendental ideas through the stair-case

of sensible types and gross forms. But notwithstanding their attitude of known hostility to the popular faith, they are, so long as they confine their opposition to the sphere of harmless sarcasm, and not allow it to culminate in the spirit of earnest and aggressive propagandism, not merely left unmolested, but even honored as demi-gods. The early Buddhists merely formed an association similar to the many flourishing now under the shade of the national faith; and they were honored, and continued to be honored, till the interests of that faith were endangered by their missionary zeal and unparalleled success.

One noticeable weakness in Buddha's character was the absence of that just abhorrence of error which leads to active and aggressive opposition thereto, or the want of that earnest love of truth which appears in a scheme of bold and unshrinking propagandism. He certainly did spread his peculiar views, but he ensured their propagation by measures too conciliatory to secure the approbation of a heart burning with love of truth and missionary zeal; and the means he employed were conversations held or discourses delivered in the quietude of private homes or sequestered monasteries; not the public preaching, the earnest visitation, and the aggressive itinerancy so evidently fitted to stir up opposition, and stimulate malice. He, therefore, rarely had a mob to face, questions to answer in the teeth of excited opponents, explanations to give with what may be called the well-grounded dread of persecution; unwelcome truths to declare in the hearing of persons ready to hail their exposition with destructive missiles; and he never opposed popular aspirations and sacerdotal hypocrisy with the terrible earnestness with which the Lord Jesus Christ denounced the respectable self-righteousness of the Scribes and Pharisees, and the gross messianic views of the populace. And the consequence is that while Christ had to show His miraculous balance of character in a furnace of trial heated seven times, the virtues of Buddha flourished under circumstances exceedingly favourable to their growth.

Buddha was an ascetic, and may justly be held up as a model of ascetic self-control and self-sacrifice. But he cannot be held up as a model of domestic virtue. He shunned intercourse with society on principle, and represented social pleasure as a dangerous thing, to be scrupulously avoided by aspirants for contemplative repose, if not by mankind at large. He never honored with his presence, during the entire period of his public career, a wedding as Christ did; he was never on terms of benign and holy friendship with any member of the female sex, as Christ was with Mary and Martha; and he never took up children in his arms and blessed them as

Christ did. Nay the social virtues were held at a discount both by him and his chosen followers; and when they tolerated them, they did so in consequence of the weakness and ignorance of mankind at large who could not see their enthralling influence as clearly as they did.

But was not Buddha an exemplar or ideal of universal love? Such love has been ascribed to him by all classes of writers, and with emphasis by Rhys Davids whose views of the system he has mastered more perhaps than any other Englishman are in accord on the whole with orthodox views of Christianity. But it is not perceived, at least generally, that universal love indicates, according to Buddha's teaching, an *inferior stage* of self-culture, and is therefore a thing to be suppressed by meditation, rather than fed and nourished. This point will have to be made clear when the ethics of Buddhism are examined; and here nothing more is needed than what may be called a premature exposure of an error into which so reliable an authority as Rhys Davids had fallen. In his small, but very valuable treatise on Buddhism, he speaks of the four stages of the path marked out before Initiates, if not all Buddhists, as those "whose gate is purity and whose goal is love." But even his own definition of *Nirvana*, as well as the mass of solid reasoning he brings forward in support thereof, is really if not apparently fitted to show that the "goal" of this path is, not merely the extinction of sensation, but the extinction of desire in general, benevolent or malevolent,—extinction of thought and feeling and volition, or self-annihilation in the literal sense of the term. And consequently, if Buddha was an example of universal love, he was such by a happy inconsistency; and his principles required that he should cast it off as one of the many bonds from which emancipation is to be worked out by self-destructive meditation.

But granting, for argument's sake, that Buddha was a perfect model of social and domestic virtue, as well as of ascetic repose, of universal love as well as of complete self-mastery, he was after all a Half-Ideal. He could not possibly have been, and he was admittedly not, an ideal of godliness and piety. The religious portion of his nature, his longing for the infinite, his instinct of worship, his sense of dependence on a higher power for self-culture and self-improvement, his sense of guilt evinced in penitential confessions of sin and groanings for deliverance, these and other cognate elements of his soul were not only not cultivated, but thoroughly suppressed. And consequently the character he presents, though glorious in some respects, is on the whole mutilated. In him we notice a one-sided development, the development of the lower accompanied with a complete or all but complete, extinction

of the higher instincts of human nature. And, therefore, he cannot possibly be held up as a perfect pattern of virtue, for the virtue, which overlooks or ignores our duty towards our Creator, is not merely deficient, but positively vicious.

To emphasize one point, Buddha cannot be represented as a model of worship, of prayer and sweet communion with God. He never prayed during the entire period of his public career. In the records translated by Beal, he is said to have "invoked the Buddhas of former ages" and looked up to the stars before beginning his career as an ascetic reformer; but this prayer, of which the other records make no mention, was, if it really was offered, his last prayer, if not the first and the last. The Ceylonese records, translated by Hardy, and the Burmese records translated by Bigandet, describe graphically his mode of life, or the way in which he spent his days and his nights; and nothing at first sight can be more pleasant than his quiet round of daily occupations. He gets up early in the morning, spends his first and freshest hours in meditation,\* then goes out in his canonical robes with his bowl in his hand to beg his daily bread, returns, and spends the intervening hours till midnight in exhorting his disciples, holding conversation with human enquirers, and instructing angelic spirits. And if his meditations were of a religious character, and included prayer to God and communion with divine things, a better mode of life could hardly be presented as worthy of imitation. But Buddha only meditated on "the aspirated and expired breath," and on the world at large "to see what being or beings should be caught in the net of truth during the day." His hours of solitary contemplation were not enlivened by a single outbreathing of the soul in prayer, a single exhalation of devotional feeling, a single aspiration after union with God and heavenly things. What a contrast between his life and that of Christ, whose days were spent in acts of humanitarian benevolence, and whose nights were spent, frequently, in sweet communion with his heavenly Father,—Who amid the multifarious demands of active philanthropy never neglected His duty to God. Christ, therefore, was a model not merely of the enthusiasm of humanity, but of the enthusiasm of piety also—a complete, stainless, glorious pattern of character!

But in reality Buddha was less than even a Half-Ideal, not even a complete pattern of mundane virtue. Universal compassion, love or benevolence has indeed been ascribed to him, not only by materialists and agnostics, but even by writers of theistic tendencies and Christian belief. But one all-important question has not been looked in the face. Can universal love exist side by side with the gloom and the chill of atheistic negation or agnostic nescience? Could a person, who systematically

strove to extinguish the religious side of his nature, ignored God, and cut himself off from divine help, develop himself into an ideal of that love, which in the regenerated soul appears as an effect of a higher passion, love to God? Again some mixture of enthusiasm and cunning should, even in accordance with the approved principles of modern science, be ascribed to him. He is said by all the existing accounts to have claimed omniscience, and a perfect knowledge of each of the different stages of transmigratory existence through which he himself and the people around him had passed. This claim enters into the texture of Buddha's life as thoroughly as Christ's claim to Divinity enters into his; and cannot therefore be thrown aside without a violent wrench. How does modern science allow this claim on the part of the Indian reformer? If not, how can it explain his persistent advancement of it except on the supposition of wild fanaticism on his part accompanied with some degree of "pious fraud?"

What Buddha in reality was a model of, is clearly and ably set forth in Professor Blackie's "Natural History of Atheism." That versatile writer, after having spoken of Buddha as "a God-man," "an Incarnation" and "a Prophet," after having lifted him up to the skies, states the conclusion of the whole matter in these words:—"Whatever we know not about Buddha, one thing certainly we do know, that he commenced with being a licentious person and voluptuary, and ended in the character of a mendicant monk; and succeeded—as indeed Brahminism did in a considerable measure before him—in impressing this ridiculous type of an unnatural and unsocial sanctity as a model of human admiration from the Ganges to the Amoor."

But here sentimentalism steps in, and he rates us for criticising harshly the character of an earnest man who struggled for truth amid the twilight or gloom of heathen error, and who nobly followed the dictates of his conscience as far as it was enlightened. Certainly an anxious enquirer or even an honest doubter has a right to claim, and never claims in vain, our sympathy and even admiration; but when such a person assumes prophetic functions, and propagates with oracular assurance a religion essentially false, a religion calculated to lead multitudes of human beings into the abyss of error, degradation and misery, such right on his part must be disallowed by all sensible men. So long as Babu Keshab Chunder Sen, for instance, assumed the attitude of a humble and anxious enquirer after truth, he could reasonably claim, and had the warm sympathy of all right-minded men; but when he set up the banner of the New Dispensation, issued proclamations and manifestoes in the name of God, and challenged belief in his vagaries with prophetic or oracular assurance, the best explanation



that could be offered by his best friends is couched in the words uttered by Max Müller in the hearing of the writer in the course of a private conversation in his own house at Oxford: "Poor fellow! he was not in his right mind during the last few years of his life." So long as Buddha prosecuted amid bodily torture and mental agony his toilsome search for truth, he could not but be an object of the deepest sympathy, profoundest respect and the highest admiration. But when he grasped as truth a palpable error, assumed the omniscience of the Deity, and preached, in supercession of existing forms of thought and faith, a religion destined to draw countless myriads of people during ages untold away from loyalty to truth, and to the God of truth, the kindest thing we can say of him is that he was not in his right mind.

A current story, often related by both young and old persons in private conversation, is full of meaning. A man drawn away from truth by false teaching was brought before Yama, the Indian Pluto, and sentenced, after a proper trial, to fifty stripes, and when these were being inflicted with due solemnity, his teacher stood before the august tribunal. The judge inflicted upon him double punishment, fifty stripes for living in error, and fifty more for leading the first man astray! In this, and other current stories of the sort, there is a vein of justice and sound sense which modern sentimentalists would do well to pause and consider.

That Buddha was a grand personality, perhaps the grandest raised in an atmosphere of imperfect knowledge and erroneous views, is readily admitted. But far from being a stainless example of moral perfection, he was an example of defective moral consciousness, of one-sided development and monastic virtue; and in him we cannot help discerning an intellect majestic, but by no means sufficiently well-balanced, a spirit lofty, but not thoroughly emancipated from prevailing error, a heart inclined to some maxims of moral rectitude, but separated from the vital principle of all true morality, and a character grand indeed in some respects, but sadly mutilated. And so far as a union of the varied elements of a well-balanced, or fully developed moral character is concerned, the least in the kingdom of heaven is greater than he!

RAM CHANDRA BOSE.

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#### ART. IV.—A DANCE OF DEATH.

SOME Mahajans in the Burra Bazar, Calcutta, are in the habit of paying coolies who have been pulling a Saheb's punkah all the previous night, and who are accordingly sleepy, to lie all day on theirs, the Mahajans' beds : so that the bugs having had a surfeit of tired punkah-wallahs, the blood-thirsty leeches may feel, disinclined for a further meal on Mahajans afterwards, and thus, thanks to vicarious sacrifice, the owners of the beds may enjoy their night's rest in comfort. Under similar circumstances Europeans, having outgrown belief in metempsychosis and all outcomes thereof, would, we take it, devote their energies to killing the bugs, regarding them simply as nuisances. But to many orientals, over and above Burra Bazar Mahajans, bug life, as well as all other forms of life, is sacred still.

It has been well in many ways for the world of the East that the idea of metempsychosis, by whomsoever invented, has prevailed in the teachings of its wise men, and proved a heaven strong enough to give definite shape to popular action. For your oriental is, in disposition, very callous indeed to all suffering not his own ; and at bottom, in spite of his tradition-enjoined reverence for life, almost as fond of savagery as those liberty loving Romans of old time who were content to let their liberties be filched from them, if only they might gloat over exhibitions of dying agony, and adequately blood stained areas of sand in the amphitheatre. Even in this much enlightened nineteenth century of ours, Indian police officers have managed to bring to light instances of human sacrifices to the Goddess Kali ; and Colonel Sleeman's record of the wanton, cold blooded delight of Thugs in quasi-religious murder, was as familiar to Anglo-Indians of a prior generation as the story of the Mutiny is to those of to-day. To this day it affords villagers in Behar great satisfaction to "lathimar" a village pig on due religious occasion ; or to watch a Saheb's dogs worrying a jackal. We have seen a Brahman Mohunt assisting with much gusto at the latter recreation.

In short, English traditions about the natural tenderness of heart of "the mild Hindu" are very pretty but not very true ; judgments derived from what some of his sacred books and some of his Canterbury tales say for him rather than from what he does for himself. English gentlemen whose lot in life it is to sojourn amongst the people—the real people in the mufassal—who mix with them, and strive to be friendly with

them—can scarcely fail to be sickened sometimes with their callousness to human suffering, their wanton torturings of animals lower in the scale of creation. All honour to Gautama Buddha, if indeed the idea of metempsychosis commended itself to him primarily as a means of abating the cruelties consequent on a common human propensity \* to bloody human sacrifices and aimless cruelty to the brute creation. As to that matter, at any rate, the man who holds with Coleridge that—

He liveth best who loveth most  
All things both great and small

must surely admit that Gautama Buddha set himself a worthy work of reform to do; and did it with such a hearty sincerity and might, that Brahmanism, much as Brahmanism hated the man, and his work, and its memory, was fain to yield at any rate lip-homage to his gospel of loving kindness to life—as long as the burden of life must needs be endured.

The Light of Asia was a man the bent of whose genius led him always towards the practical; and always in the manner in which it could best be brought home to his audience. He taught altogether by word of mouth, and left no books behind him; and so it happens that the primitive faith he enjoined, the system of religion he inculcated, has been overlaid with multifarious glosses and commentaries, and that there is a tendency amongst some of the moderns to impute to his gospel more of materialism than really belonged to it. It is, at any rate, very evident that he could not, or he would not, get rid summarily of the mystery of life, in a narrow six feet of earth, or a handful of calcined ashes. For disciple of his, as Max Müller puts it, "there is no deliverance from evil, except by breaking through the prison walls not only of life, but of existence, and by extirpating the last cause of existence." The way to this longed for ultimate deliverance lies through many deaths, and altered conditions of life after death. Through pains and penances, and the dearly bought teachings of experience, must man arrive at absorption into the infinite, by means of self-annihilation attain to the full peace that can only come with such abnegation. Meanwhile, as Mr. Arnold puts it, he should seek—

Nought from the helpless Gods by gift and hymn,  
Nor bribe with blood, nor feed with fruit and cakes;  
Within yourselves deliverance must be sought;  
Each man his prison makes.

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\* E. G. Iphigenia, Druidical and Mexican sacrificial rites, Samuel and Agag, the Christian doctrine of the atonement, Ha-san and Hoscio, Merias, Kali with a reeking tulwar in one hand, a man's dis severed head in the other: even Joe Smith the Mormon prophet. The idea of sacrifice dominates all religions.

Meanwhile disciples of his should not vex themselves over much with futile questionings. In the calm, blue skies overhead

Stars sweep and question not. This is enough  
That life and death, and joy and woe abide ;  
And cause and sequence, and the course of time,  
And Being's endless tide,

Which ever changing runs, linked like a river,  
By ripples\* following ripples, fast or slow—  
The same yet not the same—from far off fountain  
To where its waters flow

Into the seas. There streaming to the sun,  
Give the lost wavelets back in cloudy fleece  
To trickle down the hills, and glide again ;  
Having no pause nor peace.

Gautama Buddha's gospel of materialism, however, is very far indeed removed from the materialist creed, according to which death involves for the individual immediate ending, utter extinguishment of all concerns, this and other worldly. Such a creed has from time to time found favour in Arabia and Persia—

Ere death raises his night attack on thy head  
Bid them bring the rose red wine—  
No gold art thou, poor brain sick fool  
That once buried they should dig thee out again.

So wrote that "King of the Wise," Omar Khayyám, the Arabian poet astronomer, who died at Naishápúr, in the year of the Hegira 517. In China, too, a certain amount of materialism has found favour, and obtains amongst all classes, although it is difficult to understand how followers of Confucius manage to reconcile it with their inculcation of the duty of sacrificing to the manes of ancestors. But, in India, no such gospel has ever, to any appreciable, any enduring extent, found favour—weak approximations thereto of a weak-kneed Sánkhyá philosophy notwithstanding. Here the tendency has always been to regard death as the beginning of another life, higher and more soulful, or lower and more animal, according to well deserving or demerit. In an article on "The banks of the Bhagirathi" published in the *Calcutta Review* for December 1846, we are told that in 1812 a leper was burnt to death at Katwa, a village near Plassey, memorable as the place where Clive held the only council of war he ever did hold.\* Here is the extract :—

"He threw himself into a pit 10 cubits deep, there being fire at the bottom ; the leper rolled himself into it, but on feeling the fire he begged

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\* Years afterwards he remarked that if he had abided by the advice of this Council, the ruin of the East India Company would have been assured.

to be taken out, and struggled to get free ; his mother, however, and sister thrust him in again, and he was burnt to death ; he believed that by so doing he should be transmigrated into a finer body."

In India learned and unlearned, pleasure-loving and pleasure-despising, high and low, rich and poor, all incline to believe in some sort of life after death—haply a style of living better suited to their ambitions. Some of them believe—probably in this year of grace 1885 we ought rather to say believed—that once upon a time there was no death to trouble the land. Pertinently enough the Indian tribesmen who, but a few years ago held Meria sacrifices indispensable to secure the favour of their Earth Goddess, the fertility of their fields, their success in war, and their well-being generally, were people who held death to be a departure from natural law a penalty inflicted by Gods angered at tribesmen's neglect of sacrifices and worship.

The Brahman priesthood, it goes without saying, has never held any sort of parley with materialism. It could not venture to, even if it would, without sapping that conception of family life which is at the bottom of the institution of caste, and holds Hinduism and Hindu society together. In his book on *Ancient Law*, Sir Henry Sumner Maine points out how forms of association, legal, commercial, and religious, have been assimilated to forms of association based on consanguinity. And he says—

The right to inherit a dead man's property is exactly co-extensive with the duty of performing his obseques. If the rites are not properly performed or not performed by the proper person, no relation is considered as established between the deceased and anybody surviving him . . . . . Every great event in the life of a Hindu seems to be regarded as leading up to and bearing upon these solemnities. If he marries it is to have children who may celebrate them after his death ; if he has no children, he lies under the strongest obligation to adopt them from another family, 'with a view,' writes the Hindu doctor, 'to the funeral cake the water, and the solemn sacrifice.'

Hindu law, in short, has concerned itself so heartily about the comfort of a man's soul after death, that it has enabled him to give hostages to Death for due fulfilment of all obligations held to be due—hostages not only bound by their religious persuasions, but also by regard for the material advantages accruing to them through possession of temporal properties. Hindu custom has never wavered in allegiance to Hindu law in this matter ; shown no inclination to waver ; never sought dispensations from any of its exigencies, or murmured against them, or thought of setting them aside.

Some Hindus have talked of amending sundry marriage customarinesses of priestly ordainment, especially of late years, under encouragements afforded by Western world educational influences of sorts. But no jot or tittle of Death's dues. Hindu lawyers are apt special pleaders, ingenious conveyancers, keen

enough and successful enough in finding loopholes and flaws in any sort of legislative machinery they want to drive a coach and horses through. But as yet no Hindu Juris-Consult has been found applying his conveyancing or other ingenuity to the invention, for client's use, of agencies to evade the observance of their *sacra*. Sacred even for the *wakil* are the rites due to Death, the propitiations needful to the life men's ghosts must lead after the men are dead. Brahmanism obviously cannot afford to consider death an end of all things. Less power still would the rival religion of Modern India have to dare such conclusion. Mahomedanism, however, has no wish to. Rather does it encourage men to dare death for the sake of what is appointed after death as the heritage of the Faithful. Its hell is as terrible a doom as the Christian one, its heaven better calculated to tempt fleshly lusts, its moral law impregnated with the principle of restraint on lusts in this life, with view to their full and perfected gratification in a life to come. In short, as we have said, there is in India no popular gospel of materialism such as has found cognizable numerical measure of popular approval in Arabia, Persia and China. Followers after some new line of philosophic departure from old, habitual lines of thought may be Sadducees for a lifetime's space; but their schools have no elements of inherent stability about them, and do not endure; nor do their teachings carry weight with, or acquire influence over the people, to any appreciable extent. The leaven of Western world education introduced into India by the English, has naturally led to the adoption and imitation of English fashions of thought of many sorts, materialistic amongst others. But they are not congenial to Indian soil; never likely to be orientally popular save in Persia and Japan.

Although selfishness has always greatly prevailed in the world, yet always some of its men and women have been prone to hero worship, and so it has happened that to some few of its unobtrusively great men the world has been willing to behave worshipfully before their death—poets amongst the number. To none of its great poets has it ever done more honour than to the splendour loving, very far from unobtrusive Pindar, the man who lived in his singing robes and toyed with inspirations, whilst other men toiling at the oar ministered to his triumphal progress from island to island of the sunshiny Ægean sea; or at Olympia propitiated with gifts the gift of song that should immortalize the names of victors in the august games. Not only did mortal men do him homage; even over death he was triumphant. He had always been a faithful upholder of such legends of the gods as were in their essence godlike; a critic who put far from him temptation to shame

the gods by glorification of such of their actions as were not ; and when the time came from him to die, the deathless ones were not unmindful of reverence that had been done them. Whilst he waited the return of a messenger who had been sent to enquire of the oracle of Ammon, Persephone appeared to him in a dream, and told him that in his last ode, an ode in which he had said that death was best for man, he had himself answered the enquiry. The goddess told him furthermore, that in her own realm he should sing her praises, he who whilst yet a living man withheld from her the song of praise. In the theatre at Corinth, the scene of many earthly triumphs, in the arms of a youth whom he loved, the poet died—and was mourned for throughout the length and breadth of the land of Hellas. And long years afterwards, before the great temple gates were shut at Delphi, the priest of Apollo cried every evening " Let Pindar the poet go in to the banquet of the god." It was apotheosis of orthodoxy already beginning to be on the wane, although orthodoxy knew it not ; could then discern no signs of irreconcilable conflict between Fate and Freewill.

Nor did the men for whom Aschylus wrote believe themselves to be altogether without freedom of election as to choice between good and evil in their actions ; some measure of determination as to their portion of good and of evil after death. Their gods punished no guiltless man ; tempted no man to guilt. But sin once committed became a tempter ; led with cumulative force to further sinnings ; induced a moral blindness in a man of which the Fates were not slow to take advantage by involving his descendants in the ruin that punished some inextinguishable crime of his. Yet Sophokles makes Antigone conquer death with love. After a terribly troubled, vengeful-fate persecuted life his (Edipus, a god fearing prince, finds death—and therewithal rest and peace—in a place other men feared, and avoided the neighbourhood of ; in the awesome grove of the Eumenides. Although in the struggle between Fate and Freewill in old world Hellas, Fate ultimately prevailed, and gave men's minds over to the dominion of death, yet for long while Freewill held its ground—and made a garden of it. A fool's paradise if you like. Nevertheless there are not many of us, few men and women of this most unparadisiac 19th century, who would not like to be living in the childhood of the world methinks. The grown up world is very busy, very important and defiant : as outwardly self-satisfied as an auctioneer's catalogue, as perturbed in mind inwardly as an auctioneer who knows that competition and plate glass and gilt adornments have ruined him, that he is insolvent, and living in hourly dread of writs and law processes. For it life is no glad condition of ownership ; more commonly, indeed, is a very miserable condition.

For relief from which "euthanasia" is recommended in certain cases ; suggested by implication as a boon that might advantage very many cases but for latter day squeamishness about the morality of suicide and homicide. What sad songs modern English poets sing !

We wrest each bauble from some weaker hold,  
And got a bliss we own but has been bought  
At price of other's suffering. Our gold  
Is human agony stored up and wrought  
In the red furnace of our strife. All thought  
That is not sordid, that we miscall brave  
Is rooted in despair ; the battle fought  
That we all lose in turn, and none can save  
And still the greenest herbage grows above the grave.

So the anonymous author of *Ione*. A greater than he tells us, it is true

Well roars the storm to those who hear  
A deeper voice across the storm.

But *In Memoriam* echoes for most of us wreckage of fond hopes "sundered in the night of fear," rather than the deeper voice Tennyson invokes but as an afterthought, and half heartedly. What are his "Idyls of the King" but a testimony to the vanity of noble aims, the futility of high endeavour ; sad pilgrimages unto sadder graves. What poetry could be more sorrowful in its burden than the dirge of CEnone, the dream of fair women, the song of the lotos eaters ; of all those shorter pieces of the laureate's that have taken firmest hold on popular sympathy. Of Mr. Browning's poems a discerning critic has written, that in them "pain and power seem to be synonymous." What should one say of Mr. Rossetti's ? He is always sorrow-laden, always burying the dead past, as in that tenderly sad sonnet "Barren Spring :

So spring comes merry towards me now, but earns  
No answering smile from me, whose life is twin'd  
With the dead boughs that Winter still must bind,  
And whom to-day the Spring no more concerns.  
Behold, this crocus is a withering flame ;  
This snowdrop snow ; this apple blossom's part  
To breed the fruit that breeds the serpent's art.  
Nay, for these Spring flowers, turn thy face from them,  
Nor gaze till on the year's last hly stem  
The white cup shrivels round the golden heart."

Waiting for and dreading death those ancient men who seek to forget for a while their dumb despair, tell the old world tales Mr. Morris renders for us with plaintive, archaic grace in *The Earthly Paradise*. Old world tales the actors in which we too in turn are fain to envy ; ancient men with whom we too gird at the tyranny of death. Our modern poets have less faith, less hope, than those old



world ones to whom reference has been made; are in their different nineteenth century way far more bound and conditioned by Fate. Prone some of them, mocking at Fate to revert to the risus sardonicus of despair, to *Laus Veneris*, to ringing chimes out of tune, tolling chimes over some such augury as the motto for a signet ring which Solomon in the Eastern story gave to the man who asked for one suited alike to prosperity and to adversity, the motto:—"This also shall pass away." As Omar Khayyam puts it—

Since life is all passing what matter Baghdad or Balkh ?  
If our cup be full what matter bitter or sweet  
Drink wine—for long after thee and me, yon moon  
Will fill to full filling, then waste to its wane.

Strange in seeming are some of the rites and ceremonials connected with the homage paid to death in India, more particularly as regards the pious disposal of mortal remains after dissolution. When a Sunyasi dies (no matter what his caste may have been before he took the vows) his skull is smashed and mashed with a cocoanut, and the ensuing pulp is, with the body, thrown into some sacred stream to be eaten by fishes.

On the North-East frontier when a man of any note dies, his remains are stowed away in a jar of honey during the weeks or the months it takes to gather together kith and kin and friends from all parts of that sparsely inhabited, not easily traversed part of the world, for a funeral feast. After that ceremony has been digested by the living, the top of a bamboo *machûn* is deemed sufficient, in the way of sepulture, for the dead.\* A bone of every defunct and cremated Rajah of Burdwan lies in state in a place called a Somâj Bati, at Khalna. Parsees desire above all things to avoid corruption and decay in the bodies of their dead. Therefore they give those bodies to be devoured by carrion birds, and in their foul maws to undergo the transformations into other matter ordained for all flesh. Bâstams are buried in a sitting posture, with an earthen platter full of salt on which to sit. The march of Western education in India, and concomitant underminings of scandal occasioning caste observances, have almost abolished the Bâstam. Let us hope that before many years more have gone by, he will be altogether a memory, relegated to the same limbo provided for Suttee and Churruck Pooja barbarities. Meanwhile, his very existence is slurred

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\* Australian tribes on the Lower Murray pursue a similar plan, and afterwards improve the occasion by utilizing the cadaver poison generated by the corpse. They stick the points of their spears and arrows into it, and then the merest scratch—inflicted sometimes without waking a man from his sleep—is deadly.

over when native gentlemen discourse to English gentlemen of Indian habits and customs ; on occasion, denied. It may be well, therefore to explain that Bástams are outcasted caste folk, Hindus who having been taken to the sacred stream of the Ganges to die there, are by virtue of that dedication bound to die there —if not verily and indeed, then socially. If they are young and strong of constitution ; if Ganges mud in the mouth proves a saving grace and restores life to them ; if love of dear life so overpowers their sense of duty and decorum that they allow themselves to be healed of their sickness and live, that love of life will cost them dear. For according to caste law they are dead ; incapacitated from any further intercourse with relatives, friends, erewhile caste fellows. The leper of mediæval Europe, over whom, before consigning him to the seclusion of a lazaret house, a robed priest read the burial service of his church, and celebrated a mass for the dead, was not more isolated from kith and kin, and intimate fellowship with any save his fellows in affliction than these unfortunates are. In the Hindu mind the dominion of caste must indeed be firmly established. It survives even amongst people like these who find themselves by arbitrary caste ordinance and for no fault of their own, commission or omission, doomed to a life of isolation, privation, and shame. Withal to a life embittered by remembrance of what had been, and what might have continued to be, but for the cruel inhumanity of caste. For Bástams have formed themselves into, have one may say become, a pariah caste of their own manufacture, and cherish and exalt on high their own especial ritual of eastely observances. In accordance with it they eschew cremation, and are buried in a platter in the manner we have referred to. A reversion by the way to the primitive practice of burial in a crouching position which seems to have been generally followed before men had learnt how to apply fire to smelting purposes, and imitatively taken to burying under disproportionately giant tumuli an urn full of ashes instead of a dead body. When the fashion of cremation was first introduced, was it as heartily abused and denounced, we wonder, by the men of older time as its attempted revival has been in the Western world in our own days ?

Was it welcomed by women who could see in the new departure a glimmering of hope for wives theretofore obliged, consenting or not consenting, to accompany their lords to the tomb, and the spirit world ? Did any of them regret deprivation of opportunity for the exercise *en grande tenue* of the virtue of unselfish self-sacrifice which is usual womanly adaptation of the heroic to womanly weakness ? Did the hound feel thankful or sorry for the selfishness of a love that ordained his death, in order that he might continue to hunt for his

master in another state of existence? Or was the hound sent with the master because he was absolutely necessary as a guide to an unknown country? As accredited servant of the powers of an occult world whitherwards all men must travel, he seems to have been recognized all over the world from earliest known times. Although the Norsemen saw not her goings to and fro amongst them, he could see how Hel the Goddess of Death moved to and fro in their midst in the wake of fierce North winds; and he was fair to do her bidding. In the dreamy, lazy, *laissez faire* orient he is still, as he always has been, boder of evil, prophet of dissolution. North and South, East and West in the world, he always is more or less. It is strange how, in India, in spite of his unpopular office, in spite of his unspeakably filthy habits, in defiance even of caste, the dog manages to retain a hold upon popular affection—an affection that overcomes even prejudice. The meek dove, emblem of the Western world paraclete, the Eastern world Moon God, is dreaded and disliked because of its Death world derived missions amongst men. But not the dog. One may read in the sacred books of the Hindus how Yudisthira refused to enter heaven without the canine companion of his earthly wanderings. Every day we see around us men who, from a caste point of view, abominate the dog as an unclean beast, yet sailing as close to the wind of caste practice as any one could, and protecting and cherishing him.

Moribund Hindus may enjoy at any rate one consolation denied usually to the dying Christian: they cannot well be buried alive. Doctors pooh pooh the idea of such a possibility in these days of advanced knowledge and scientific tests. Doctors are ex-officio bound to assume infallibility as to all matters connected with their craft; as much for the sake of begetting confidence in their patients as in themselves. But we know that Church Councils have ere now called in question Papal decrees; that living Popes have upset and nullified the decisions of their dead and gone and infalliable predecessors in office. We take leave to think that even Doctors may be mistaken sometimes. In their own annals may be found recorded cases of unnaturally suspended animation, trances that seemed to them so like death itself, that they have given sanction to arrangements for the burial of people who have been proved, by the irresistible logic of after events, to have been really alive. Some have wakened from their trance just in time to escape actual burial.

Terribly evident traces of attempts made by others who have been actually buried to break through their tomb imprisonment have been, from time to time, brought to light. As we have said, Doctors are not infallible. Have not criminals Jack Ketch has hung been certified dead by the medical man in

attendance, and come afterwards into possession of power of locomotion and speech in a manner really dead people are never known to adopt anywhere save at a spiritualist seance. It is true that Arthur the blameless King, the *Rex quondam, Rex que futurus* of the legend, is believed by some of the English West country folk to be alive still, in spite of the mortal wound he received in his last earthly battle. But then it is in some invisible, undiscovered fairyland that he has his being. Some honest Germans think that Barbarossa, their red bearded Arthur, is not really dead either. Only he spends his time, and his beard is growing now in an under earth, unearthly fashioned cavern. He so more mixes with his fellow men than Arthur does. Dead people who come to life again do not seem to care to somehow. It appears to us that the Hindu who can die, or seem to die, with full assurance that the material part of him will be burnt not buried, has something to be thankful for. Perhaps the day may come when sanitary considerations will obtain such weight with European society at large, that Christians too will be fain to follow a then prevailing fashion, and to believe that, as regards their insensate corpses, they prefer cremation to decomposition. People do not, as a rule, relish the idea of the flesh and bone they leave behind them being dissected, whether for the benefit of medical students, or other useful purpose. Yet some men have got quite used and reconciled to the idea, and have been known to bequeath the mortal part of them to a surgeon to be experimented on. Why should not others become used in time to the idea of cremation, and setting a sufficiency of good examples—of course amongst the aristocracy—inaugurate a fashion of cremation?

Embalming as a means of avoiding nature's law of decay and reproduction, is a notion perhaps a shade less stupidly illogical than the Parsi idea of saving the dead from pollution by means of the maws of carrion birds, to which reference was made above. It has at least the merit of being ostentatiously and uselessly expensive and exclusive. Yet, strange to say it does not seem to have found favour in Mahomedan India, even in the palmiest days of emulative Mogul extravagance and enrichment of the rich at the expense of the poor. The notion of embalming hearts seems to be altogether of European invention and following. A somewhat famous one journeyed once to India. For after the death on the scaffold of the gallant Marquis of Montrose, his heart, bequeathed by him to his niece, the fifth Lord Napier's daughter (after being lost in the course of a campaign in Flanders, and found again years afterwards in a curiosity dealer's shop) was brought by her to this country. There it was stolen, and recovered from a Rajput fighting man who had bought it as an amulet, guaranteeing

its possessor against wounds in battle. When she took her way homewards again, it went with her through sundry sea fights with French privateers and strange vicissitudes. Finally it disappeared in the hell broth of the first French Revolution.

Christians and Mahomedans in India elect to have their remains buried after death ; and India can boast of the most beautiful tomb that ever was dreamt of, or ever, for the delicateness of its marble beauty, likened to a happy dream. As for its other sepulchral monuments, Christian tombs are, with few exceptions, uglier and in even worse taste than the 18th century European models whence they have been derived. Mahomedan tombs are sometimes less pretentious and tawdry ; sometimes seemly appparelled memorials of, fit resting places for, the quiet dead. But a Mahomedan burial ground is too often in effect a Golgotha, an agglomeration of shallow, barely covered pits, that fail shockingly to fulfil the mission for which we must presume them intended. The grave plug for a woman is only to the height of her waist. Too many Christian graveyards in India are as uncared for, almost as much a scandal and abomination as the earthly resting places of the Faithful. They are overgrown with rank, noisome vegetation, overrun with snakes, and creeping slimy horrors ; the tombs are delapidated and crumbling away ; the head-stones that were on the tombs, and bore pious or loving inscriptions, have been carried away to grind curry *masulis* on. Christians are buried in a coffin. Mahomedans for the most part get their dead carried to the grave on a charpoy, or like apology for more pretentious bier. Often have corpses paraded in this pestilent fashion through crowded bazars and city streets when the occasion of death has been small pox or some malignantly infectious fever. After a Mahomedan funeral, wheat, rice, salt, pice, are given in charity to the poor. Christian almsgivings on similar occasions precede interment, and are paid to milliners, dressmakers, and "mourning outfitters." Amongst Mahomedans it is held a good deed to accompany a funeral procession to the grave on foot. Christians hold it more meritorious to ride in a carriage. Funeral charges are, with Mahomedans, regulated and adapted to the means of the family to which the dead belonged. They have no "mourning outfitters," or "mourning expenses." A Christian burial is made occasion for affectations of funeral pomp that not unfrequently saddle on surviving relatives of the dead a load of debt and difficulty. Granting, for the sake of the comparison, that corpses must needs be buried, the preparations for, and the proprieties associated with, a Mahomedan funeral, seem to us in many respects more worthy of imitation than funeral observances which a fetisch worship of respectability has engrafted on primitive Christian

usage. Fanfaronade of funeral pretentiousness and pomp of mourning seems now to have drifted away altogether from original design, to be used now solely with view to glorification of the living instead of in honour of the dead. Well is that "The Lord is lord of the living only : the dead have another God." Well too that "Wretched shall they be all the days of their mortal life who offer up worthy and acceptable sacrifices unto the God of the dead : but after death their trouble ceaseth.\*" In Burma men make merry over the dispensations of the "King of terrors." When a death occurs in a house will, for a week together, with help from cards, gambling, and grog, make it excuse for holding feast of an exaggerated Irish wake description.

If the translated one happens to be a husband, his neighbours all and sundry, whether they were personally acquainted with him whilst he was yet in the flesh or whether they were not, are bidden to the feasting—and made to pay for it, each one according to his means. The Burman is kindly of disposition and essentially gallant ; sympathizes with the widow in her affliction, and will not allow her to be impoverished by celebration of the rites due to death. When a Burman's wife dies on the other hand, he is bound by etiquette to expend a substantial moiety of his substance in feasting the neighbourhood in her honour. Even so however customariness exacts less from him than it does often enough from Hindu survivors of the dead on the Indian continent.

Feeding caste fellows, fees to Brahmans and priestly satellites and adjuncts of sorts, fees to demons and ghosts, benevolences of sorts that percolate all through the hierarchy of death, down to the Dom whose proprietary right it is to supply wood for the burning of the corpse—all these are mulcts and exactions that run away with a lot of money. To affluent, high caste Hindus, a death in the house must sometimes prove as expensive a domestic affliction as a daughter's wedding. In the van of a Burman funeral procession, professional dancers cut capers to appropriate music, and a general air of rejoicing pervades the cortege. The life troubles of the deceased one are for a while intermitted at any rate ; and he or she has, it is hoped, got nearer to that ultimate blissfulness of annihilation which is the *summum bonum* of Burmese aspiration and endeavour. There is no skeleton at a Burman funeral feast. But the men and women who sit at the festive board specially venerate relics—fond, foolish remembrancers to them, one would think, that love must be lost in death.

Protestants, and a great many severely sensible people all

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\* Coleridge. Wanderings of Cain.

the world over who are not protestants, laugh at relics and relic worship, and yet will fondly cherish and worship a dead woman's hair, a dead child's toys, a rusty sword that was a soldier's once upon a time—what not precious memento of loved ones who were; and are not. Happily for the world at large, consistency is less common, as well as less of a virtue, than love. Relic worship, however, it must be confessed has been sufficiently overdone in the world to warrant some reactionary dislike to relics in the abstract. Small phials of a saffron colour containing the fluid which formerly flowed from the tomb of St. Mungo,\* are worse than unsavoury; and Martin Luther's beer mug is worse than ridiculous. But relics, when they are the right relics, are efficacious for all that. John Zisca's skin made into a drum was, notably. Possession of the *Amanat*, the sacred relics—to wit the prophet's cloak, some hairs from his beard, and the sword of Omar—still constitutes one of the recognized claims to the Mahomedan Khalifate.

Three of Savonarola's disciples contrived to carry away from his funeral pile the heart of the reformer. They mixed with wine a small portion of the ashes of this, drank the mixture, and bound themselves by a solemn oath to avenge their martyred master: to take no rest until the temporal power of the papacy was subverted. The club they founded, the "Tephrapotes" has from time to time vigorously helped towards that consummation, given much trouble to Austrian and Italian governments, and furthered the cause of liberty. An old waistcoat of J. J. Rousseau's fetched 950 francs at an auction sale in Paris some fifty years ago. Perhaps one of these fine days one of Mr. Bradlaugh's battered House of Commons hats will be worth as much. Time is your true beautifier: death the supreme alchemy; and the grave, like the Principal of a Commercial Academy for young gentlemen, keeps a garden wherein are olive and bay trees, and forcing houses for the outturn of epitaphs laudatory of scholars whose school fees have been regularly paid to the authorized agents. *De mortuis nil nisi bonum*. Which wise preachment, being interpreted into the vulgar tongue, means we have heard "when bad men die let all bemoan 'em." In olden times survivors were careful rather to provide the dead with money for Charon's ferry hire, than to ignore the sins they had enjoyed whilst they were alive.

The modern plan is more economical, and therefore, of course, better suited to the genius of modern times. Besides, we don't believe in Charon and Elysian fields nowadays, we moderns. The King Canute of nursery story fame, the paragon of wisdom, who allowed an incoming tide to wet his feet, and

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\* One of these figures in a list of the treasures taken away by the Abbott of St. Andrew's, Glasgow, at the time of the dissolution of the monasteries in Scotland.

took upon himself a severe cold in the head by way of showing his courtiers the folly of flattery, was the last Christian King of England careful to take with him to the grave coin for the satisfaction of Charon's demands. At least, we are not aware that a silver penny has been found in the hand of any royal mummy disinterred in England since (in June 1765) the workmen repairing Winchester Cathedral unearthed what was left of Canute and his wisdom. Funeral fashions have changed since his time in England, and Kings and Commoners find a better use for their silver in its application to coffin handles and escutcheons, and pomps and vanities of "undertaking."

J. H.



ART. V.—THE TRIAL OF MAHARAJA NANDA  
KUMAR.

*A Narrative of a Judicial Murder.*

I INTEND to discuss in this and other<sup>†</sup> articles the famous trial for forgery which was held at Calcutta, in June 1775, before the Supreme Court of Judicature. In doing so it will be my duty to comment severely on the conduct of Warren Hastings and of Sir Elijah Impey, and I believe I shall be able to prove that the execution of Nanda Kumar\* was a judicial murder.

I shall endeavour to establish the following nine points:—

1. That the bond-exhibit A<sup>†</sup> of the trial was not a forgery, but was the genuine deed of Ballaki Das Seth.
2. That no attempt was made to prosecute Nanda Kumar before May 1775.
3. That there is strong circumstantial evidence that Hastings was the real prosecutor.
4. That Kamiladdin Khan, the principal witness in the three trials for conspiracy and forgery, was closely connected in business with Kanta Babu,<sup>‡</sup> the banyan of Hastings, and was the intimate friend of Sadaraddin Munshi, who was formerly in the service of Graham of Bardwan, but who at the time of the trial had attached himself to Mr. Barwell. (120c.) I shall also show that this man Kamiladdin was one whose word could not be believed, and that he was correctly described by General Clavering as an infamous creature, and by Mr. Bowke as the scum of the earth.
5. That the trial was unfairly conducted, and that, in particular, the Chief Justice's manner was bad throughout.
6. That the jury was prejudiced and incompetent.
7. That the prosecution entirely failed to prove that the bond was a forgery.
8. That the execution was iniquitous, even on the supposition of Nanda Kumar's guilt, and that it was the result of a plot to stifle inquiry into bribery and corruption.

\* *i.e.*, the son of Nanda—a name of Krishna.

† It was marked Exhibit A. at the trial. It may also be called the jewels-bond. (Howell's State Trials, XX, 95b.) In future references to Howell, I shall quote only the number of the column and insert this in the next.

‡ The Arabic word *falsi*—fictitious—is the proper term to denote the relation of Kamiladdin to Kanta Babu. *Bendmidar* is, I think, a solecism, though *bendmi* is common.

9. That Sir J. Stephen has, in his recent book, "The Story of 'Nuncomar' and the Impeachment of Sir Elijah Impey," partly from the zeal of advocacy and partly from his having approached his subject without adequate preparation, without knowledge of Indian history\* or of the peculiarities of an Indian record, made grave mistakes in his account of the trial and in his observations thereon.

The Nanda Kumar charge was one of six preferred against Sir E. Impey. Sir J. Stephen has discussed them, one by one, but I do not propose to take up the remaining five or to follow Sir Elijah through the rest of his Indian career. I confess; I do not see how his subsequent acts can be defended. I cannot admire his conduct in the Patna and Kasijora causes, nor can I see any justification or excuse for his strange journey to Lakhnauf and his there hounding on the Resident to oppress two women. To me it seems that his Lordship, as one fond of the classics, remembered and observed while in the East, the Horatian maxim, "servetur ad inum qualis ab incepto processerit et sibi constet," but the career is too sordid to attract the historian and all Impey's subsequent doings pale in interest and criminality before the murder of Nanda Kumar. I must however not omit to mention that his most recent biographer has unkindly cut the branch on which Impey's admirers had hung up some shreds of his reputation, after painfully fishing them out of the mire. There they have swayed for a time in an uncertain manner but have now fallen again into Malebolge. I refer to Sir James Stephen's proof (II, 232) under Impey's own hand, that he was paid for his services as judge of the Company's Court, and that he drew at least Rs 5,000 sikka a month in that capacity. Alas! how much rhetoric has been dissipated by the four words, "This I have received"† Sir Elijah's son was ap-

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\* See appendices A, B, and C.

† See Appendix C. "The Lakhnau Affidavits." In 1786 Francis wrote to Sir Robert Chambers that in his opinion, Impey's "going to Lucknow to take those depositions against the Begums is the blackest and basest transaction, except one, that has yet dishonoured the British Administration in India." If Chambers' reply is in the Francis M.S. it might be interesting reading.

‡ Sir James considerably underestimates the amount of Impey's salary by reckoning the sikka rupi as worth 21. 2*d*.—thus making the annual salary £6,500. The sikka rupi was worth 16 p. c. more than the current rupi, and the latter was reckoned as worth 2*s*. 3*d*. (Verelst, Appendix, 117, note.) For purposes of conversion, however, the sikka appears to have been worth only 2*s*. 6*d*. which would make it 11 p. c. only better than the current rupi (in Impey's day a mere figure of account and not an actual coin.) This might be because the sikka fell in value 5 p. c. in two years and was reckoned in the third as only 11 p. c. better than the current rupi. It was then called a sanwât. Bolts and Verelst both in their glossaries give 2*s*. 6*d*. as the exchange value of a sikka rupi. Possibly Sir James has been misled

parently the person who started the tale of his magnanimity though by a curious retribution, it is the son who has led to the detection of the legend by placing his father's M.S.S. in the British Museum. I am sure that Mr. Elijah Impey, the only partner in this bankrupt business of white-washing, who appeals to our sympathies, was incapable of suppressing evidence. Still, the fact that he did not read or did not apprehend his father's letter to Thurlow, shows the small value of his "Memoirs." Sir John Kaye followed in his wake and wrote in this *Review*, that Sir E. Impey had taken upon himself an immense amount of labour and had never got a farthing out of it. He, and probably others also, for the tale soon became an article of faith, must have misled Sir William James whom we find writing, that it was clear Impey had never taken what his enemies called the bribe—the salary attached to his new office. So too, Mr. Field tells \* us, that Sir Elijah's

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by Wilson's giving 2s. 2d. as the value of the sikka, and has not observed that this is the value for 1855, and that in the body of the article "Rupya," he states that 100 sikka rupis were reckoned as equivalent to 116 current rupis. In Impey's Memoirs (224) an account of the deposits of the Civil Courts in 1782 is given, in which the sikka is estimated at 16 p. c. better than the current rupi. In the same work (259) there is a quotation which appears to be taken from a minute of the Court of Directors defending the appointment of Impey, and in this paper the amount of salary is stated to be £8,000. The value of the sikka, as verified above, shows that Impey's monthly salary was 5,000 half-crowns or £625. If to this be added the 600 half-crowns paid to him for the rent of an office, we have a monthly total of £700 and an annual salary of £8,400. His pay as Chief Justice was fixed by the Regulating Act as £8,000, his second appointment, therefore, doubled his emoluments. The additional £400 might cover the expense of office rent. We thus see that Macaulay was right in describing Impey's salary as £8,000.

\* The mistake of former writers was that, they did not give Sir Elijah sufficient credit for accuracy in the use of words. They did not perceive that when he wrote that he would decline *appropriating* to himself any part of the salary, he did not mean that he would not draw it but only that he would not spend it, and that he would be ready to refund it, if the Lord Chancellor disapproved.

I think that a similar inadvertency has led Sir J. Stephen into an erroneous remark on the charge to the jury. Dr. Busted, in his delightful volume, "Echoes from old Calcutta," describes the summing up as short. On this Sir James remarks that Dr. Busted must have overlooked the line of the charge which says that the Chief Justice read over the whole of the evidence. Now the term which Impey used was "recapitulates" and as this denotes to summarize or to give the principal heads of a subject, it would not be used by a correct speaker or writer to mean a verbatim recital. Against such an expression from Impey the note of the reporter—the boy Tolfrey or the almost, if not quite, equally youthful Elliot—is of no weight. Moreover, I think it can be shown that it was a physical impossibility for Impey to read over the whole evidence in the time at his disposal. The verdict was delivered at 4 A.M. on Friday June 16th, after a deliberation of about an hour, so that the charging came to an end at 3 A.M. On that same morning (1072 last para.) Kista Jiban Das was examined and cross-examined. This, and the short discussion about permitting him

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conduct was irreproachable. If Sir J. Stephen had done nothing more than explode this legend he would deserve the gratitude of the lovers of truth.

With regard to the execution of Nanda Kumar, I adopt the conclusions of Burke, Mill and Macaulay, and I hope to show that this illustrious triumvirate was justified in condemning Hastings and Impey, and that Sir J. Stephen has not succeeded in his attempted rehabilitation.

Sir J. Stephen is an able man, and so long as he confines himself to his own domain of English Criminal Law, every one must feel a hearty respect for his opinion, but his love of contest has more than once before led him to take up questions which he was incompetent to handle. Some years ago, he made himself ridiculous in the eyes of good judges, by invading the territory of metaphysicians and by attacking, as he imagined, the views of Auguste Comte without studying his writings. At the same time, and pressing poor Virgil into the service, he set himself to excuse Pontius Pilate, so that we need not wonder at his coming forward to vindicate Sir E. Impey.\* All judges and governors are sacred in his eyes, and his highest idea of a touching scene is that of a judge listening to a criminal! Sir J. Stephen has been a very successful man and his talents and industry have deserved success, but perhaps it is because he has been so successful that he cannot perceive that his abilities are limited. He has the air of believing that, because he has become a judge of the Queen's Bench Division, he must be right and every other person wrong. I think that we may without injustice apply to himself the exaggerated language in which he has spoken of Impey, and say that he has had an excellent legal education, that he is a man of remarkable

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to depose, could not have occupied less than an hour. His faltering and stammering must have taken up time. Then Impey had a few minutes to recollect himself (1076) so that altogether he could not have begun his charge till about 1.30 A.M. Impey had thus an hour and a half at most for his recapitulation, and it is impossible that in that space of time he could read through evidence which fills 131 columns (not pages as Sir J. S. says) of Howell's close print and also comment thereon!

\* Sir J. S. says (I, 34) that Impey seems to him to have resembled closely many other judges whom he has known. Is not this being rather hard on English Judges at home and in India? And will Sir James' colleagues of the Queen's Bench be grateful to him for the comparison? Judges, like bishops, ought to have a good testimony from those that are without, and I should be sorry to think that any English Judge, in recent times, had such a reputation that a conscientious man like Cornwallis, would willingly see him hanged! Nor do I think that any other Chief Justice would have had so little self-respect for himself or his office as to go on writing by every mail for seven years to a brute such as Thurlow, (Sir William Jones called him a beast, though he did it in Greek) without receiving a single letter in reply. (Story of Nuncomar, I, 33.)

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energy and courage, and that he has a great deal of rather common-place ability. But such mortal weapons will avail little in a contest with the Gods! or, to drop metaphor, mere talent will not avail in a contest with the genius of Edmund Burke, on a subject to which that genius devoted years of intense labour. Sir J. Stephen looks at great questions from the point of view of the mere practising lawyer, and in consequence he cannot grasp them: witness his dreary letters on the Afghan question and the Ilbert Bill. The notion which he seems to entertain, that the Nanda Kumar question can be settled by one who has applied to it only a knowledge of English Criminal Law is about as grotesque as that of pedants "who think to climb Parnassus by dint o' Greek." His rashness has even led him into mistake in his own particular department. Did he not write comments on the Criminal Procedure Bill, which his successor declined to publish from tenderness to the learned Judge's reputation?

I cannot think that the "Story of Nuncomar" will permanently add to Sir J. Stephen's fame. When the chorus of journalists shall have hushed, and when the time has gone by

When wits and templars every sentence raise  
And wonder with a foolish face of praise

the blunders and one-sidedness of the book will be discovered, and men will come back to the truth. They will remember that Cornwallis, an honourable gentleman and no Whig, wrote in 1786, only two years after Impey's departure from India, begging that he might not be sent out again, and observing that all parties and descriptions of them agreed about him. That, again, in 1788—the year of the impeachment,—the same high authority wrote that he was very sorry for Hastings, but that if they wanted somebody to hang, they might "tuck up" Sir E. Impey without giving anybody the smallest concern. When the dust of controversy has been laid, men will recur to the opinion of Burke and accept in shame and sadness the verdict which he pronounced in his speech on Fox's East India Bill. "His ancient rival for power, the Rajah Nuncomar, was by an insult on everything which India holds respectable and sacred, hanged in the face of all his nation, by the judges you sent to protect that people, hanged for a pretended crime, upon an *ex post facto* Act of Parliament, in the midst of his evidence against Mr. Hastings. The accuser they saw hanged. The culprit, without acquittal or inquiry, triumphs on the ground of that murder; a murder not of Nuncomar only, but of all living testimony, and even of evidence yet unborn. From that time not a complaint has been heard from the natives against their governors. All the grievances of India have found a complete remedy." It is a refreshment to read these

ringing words and an encouragement to me to proceed with my task.

Sir J. Stephen has pointed out some mistakes in my essays, "Warren Hastings in Lower Bengal" published in this *Review* in 1877 and 1878, and notably a blunder about the *kursinama*. I have no doubt that he is right in saying that this should be *kararnama*, or some equivalent word, and I admit that my mistake shows that I had not sufficiently studied the report of the trial. In fact, I had not a copy of it with me when I was writing my articles in a remote station in northern Bengal, and was obliged to rely on notes made some months previously in England. These contained the word *kursinama*, and as I knew that genealogical trees were often filed in our Courts, I accepted the term without further consideration. This, of course, shows how imperfectly I had read the trial, but my subject then was Hastings rather than Impey, and according to my view, which seems also to have been that of Macanlay, it mattered little as regarded the guilt of Hastings, whether the bond was true or false. It was the prosecution and the hanging which I regarded as iniquitous rather than the conviction, which might have been mainly the doing of the jury and might have been warranted by the evidence. Another thing which led me to neglect the report of the trial was, that I understood from Farrer's evidence that it was not full or accurate. It was published in England by Elliot, the protégé of Hastings and Impey, and doubtless it is not quite complete. It is also most confused and difficult of comprehension. I have now, thanks to the Calcutta Public Library, obtained the 20th volume of Howell and have been animated by Sir J. Stephen's example to study the reports of all three trials very closely. I certainly had no idea that so much could be got out of them, and I here offer my thanks to Sir J. Stephen for putting me on the proper track as well as for the service his own book had done me. It seems to me that an adequate study of the reports will enable us to trace the conspiracy against Nanda Kumar and almost to demonstrate his innocence. I am only sorry that I have been as yet unable to procure the original edition. Howell's abounds in misprints and other errors, and it may be that these do not occur in the original edition. At all events, if they do, and if Elliot supervised the publication and was the scholar he is reputed to have been, the number and character of the mistakes are extraordinary. Sir J. Stephen does not refer to the original edition and does not appear to have seen it. I gather this from what seems a mistaken mode of referring to the report of the conspiracy trials. His mode of citation implies that they too were published under the authority of the Supreme Court, but I doubt if this was the case.

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Elliot's letter to Cadell the publisher and the enclosure from the Judges \* appear to show that the publication of the forgery trial only was authorized.† It would be strange if the Judges were responsible for the reports of the conspiracy cases for they go into details beyond the scope of a report and breathe a strong party spirit. If Elliot edited them they show how unfortunate—to say the least—it was that Impey should have insisted on his being interpreter in the forgery case.

With these remarks I proceed to discuss my first and second points, namely, that the bond was not a forgery, and that there was no attempt at a prosecution before May 1775. I must premise that I am unable to treat exhaustively of the first till I come to the account of the trial. I shall then complete its discussion along with the seventh point, *viz.*, that the prosecution failed to prove that the bond was a forgery. As, however, I have adopted a chronological order in my discussion, the question of the genuineness of the bond must rise up early in my narrative of events, for it purported to have been executed on August 20th, 1765, that is, nearly ten years before the prosecution began. The second point will be elucidated with the first. Both are of great importance, and therefore I trust I shall be excused if I treat them at what may appear to be excessive length.

I perhaps cannot hope to make the subject interesting except to Bengalis and to those Englishmen who like studying historical puzzles and are not, to use the words of Thucydides, unenduring in the quest of truth. To myself, however, it seems that the question of whether Hastings and Impey put Nanda Kumar to death unjustly is far more interesting and important than the oft-debated questions of the authorship of Junius or the guilt of Mary, Queen of Scots. Moreover, the latter subjects have now been pretty well threshed out, and in one of them a far off touch of chivalry makes inquirers unwilling to press the evidence against a weak woman. No such scruple holds our hands in the case of Hastings and Impey, especially when they have lately secured so redoubtable a champion.

The question of the genuineness of the bond lies of course at the very root of the case. If it can be shown that the bond was genuine, Nanda Kumar was an innocent man and the victim of perjury, though the jury may still have honestly believed him guilty. The importance of the other point, that is, of the genesis of the prosecution, lies in this, that if it can be proved that an attempt was made to prosecute Nanda Kumar for forgery long before he lodged his complaint against Hastings, the probability that the latter was connected with the subsequent proceedings

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\* Impey's Memoirs, p. 122.

† This is also implied by the two title pages of Cadell's edition printed in Mr. Belchambers' Note (p. 9).

is much diminished. On the other hand, if it can be shown that no one tried to prosecute Nanda Kumar for forgery till May 1775, there arises a strong presumption that the accusation was, as Sir J. Stephen admits (I, 89) was the case with the conspiracy charge, a counter-move in the game begun by Nanda Kumar in the previous March. Sir J. Stephen maintains that there is evidence of an attempt at a prosecution early in 1774, and he insinuates (as I understand him) that I knowingly passed it by. I adhere, however, to my former assertion, and hope to show in due course that what Sir J. Stephen considers evidence of previous attempt at prosecution was really not such. Meantime I may state that neither Mohan Prasad in his evidence, nor the Chief Justice in his summing-up to the jury, made any allusion to a previous prosecution or to an attempt at one. Further, I unhesitatingly affirm that the assertion of an attempt to prosecute early in 1774 has no foundation other than an ambiguous account given by Farrer in 1788 of a conversation which he had with Mr. Driver, the attorney of Ganga Vishnu 14 years before! Farrer's account, or at least Driver's statement to him, is also opposed to the words of the petition which Driver filed in the Mayor's Court in March 1774, and to which he was referring when he spoke to Farrer. The account is also opposed to the statement of Sir Elijah Impey before the House of Commons, that he had no evidence to prove that the endeavour to procure the papers from the Mayor's Court was intended as a step towards a criminal prosecution.

In order to deal fully with my subject I must go far back, much farther than Sir J. Stephen has gone (I, 90) and I begin with an account of Ballaki Das, the man whose bond was said to have been forged. Most of my information is derived from the report of the trial, but I have obtained interesting and valuable facts also from Bolts' "Considerations on India (sic) Affairs."

#### LIFE OF BALLAKI \* DAS.

Ballaki Das, otherwise Ballaki Das Seth, was a Hindustani or up-countryman by birth, and belonged to the well-known mercantile caste or tribe called *agravalla*. He was therefore probably a *vaishya* by caste, and he seems to have been a Vaishnab in religion. He was a *saríf* or banker, and had his principal place of business at Murshidabad, a circumstance which would naturally bring him into contact with Nanda Kumar who was a native of the district or of the city, where he lived long as diwan of Mir Jafar. Ballaki was originally a man of small means and was in partnership with one Dharm Chand, but he

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\* *i.e.* vina or lute, and also one who plays on the lute, probably a name of Krishna.



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rose to wealth and importance by becoming the banker of Mir Qasim. He had transactions in Dacca and many other districts of Bengal and had correspondents in Benares, on which place he once, in Dec. (?) 1765, granted a letter of credit for a lakh of rupees in favour of Lord Clive.\*

When war broke out in 1763 between the Company and Mir Qasim, Ballaki either voluntarily followed his master's fortunes or was carried along in his train. More lucky than the father and uncle of Jagat Seth, he was not put to death at Barh; still he did not escape without suffering. He was in camp with Mir Qasim at Baxar and achieved the disagreeable pre-eminence of being the first person selected by the Nawab Vizier Shuja-ad-Daula as a subject for extortion. He was made over to the Nawab's treasurer, Khaliq Yakut (?) to be squeezed and kept in confinement for about a month. Sir J. Stephen says that he was confined in his tent but there is no authority for this, and the probability is that he was kept in some less comfortable place. It was Mir Qasim who was kept under surveillance in his tent. Ballaki's bookkeeper, Kista Jiban, was also imprisoned but this was about a fortnight later.

About the time of his imprisonment Ballaki is said to have received a remittance of treasure through the hands of one Mir Asad Ali. The treasure was being conveyed from Rohas Garh to Mir Qasim under the escort of Mir Asad, and Mir Qasim told him to make it over to Ballaki Das. From this arose a point of great importance at the trial, for Mir Asad gave evidence for the defence and produced a receipt for the money bearing Ballaki's seal and dated 14 Rabi-as-sani 1178 H. (11 Oct. 1764.) This was material because Sir E. Impey examined the impression of the seal (a trouble which he did not take in the case of Kamiladdin's) and found that it agreed with the seal on the bond which Nanda Kumar was alleged to have forged. This receipt then, if genuine, was strong evidence in Nanda Kumar's favour, for it went to show that the seal on the bond was the genuine seal of Ballaki Das. Sir E. Impey, however, disbelieved Mir Asad's receipt, saying that it seemed clear beyond a doubt that the receipt could not have been given by Ballaki Das and that the whole was a fiction. He went on to use this as a ground for distrusting the other witnesses for the defence, observing that the fictitious receipt might account for the

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\* Sir J. S. says that the evidence of this transaction, which is referred to by Impey in his charge, is not given in the report of the trial. He is wrong. (954) Perhaps he was not aware that Naba Krishna was Clive's banyan, but even so, he might have seen Clive's name in the entry proved by Kista Jiban. The money was repaid by Clive about five months afterwards. It appears probable from Bolts (II, 43) that Clive wanted the money to invest in diamonds which were then used as a means of remittance to England.

other witnesses remembering the seals so accurately. Sir J. Stephen has adopted this reasoning and has added some argument of his own; it is therefore very material to show that both he and the Chief Justice are wrong in rejecting Mir Asad's story as intrinsically improbable or absurd. To do this compels me to make a long digression from the narrative of Balla-ki's life.

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MIR ASAD'S RECEIPT.

Sir J. Stephen doubts Mir Asad's story because he (I, 134) holds it to have been proved at the trial that Mir Qasim retreated from Bihar for the last time in May 1764, and because he thinks that Rohtas was taken by the English earlier in the year.

Now it is not the case that Mir Qasim retreated from Bihar for the last time in May 1764, nor does Mr. Hurst, the authority quoted by Sir James, say so.

Captain Camac is represented in the report as saying that Shuja-ad-Daula and Mir Qasim retreated to Benares on May 3rd, 1764, and remained there, but I think this statement is due to bad punctuation and to a misprint. The date—May 3rd refers to the previous clause, and Benares is probably a misprint for Baxar. Shuja-ad-Daula was Vizier of Oudh and had, I believe, little authority at Benares, and I do not think that either he or Mir Qasim retreated there. This at all events is certain—they did not retreat on May 3rd. After the cannonade on that day, the two armies remained at Bankipur, "looking at one another," as Captain Williams expresses it, for some weeks, and when at the end of May, Shuja-ad-Daula and Mir Qasim moved westward, they at first only went to Maner. Later they retreated to Baxar and there remained during the rains. Shuja-ad-Daula seems to have crossed into his own territories, but I believe that Mir Qasim did not leave Bihar till after the battle of Baxar. It was not until Major Munro joined the army in August that the English resumed the offensive, and he did not march out of cantonments till October 9th. During Major Carnac's time, as Vansittart wrote to the Council, "our army lay intrenched, surrounded and insulted, under the walls of Patna, until they lost both their spirit and their discipline, while Shuja-ad-Daula, at full liberty, possessed or ravaged all the Bihar province, and took up their winter quarters in the midst of it." (Bolts; II, App. A, 139.)

Nor is it the case that Rohtas was taken before May 1764. It was certainly in Mir Qasim's possession up to about the end of September, and according to some authorities it was not surrendered to the English till after the battle of Baxar.

Buchanan, who visited the fortress and who gives a circumstantial account of Goddard's proceedings, says that it was

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surrendered after the battle of Baxar (Montgomery Martin's *Eastern India*, I, 434.) And he has been followed in this statement by Thornton and Hunter and by the author of "*Chronicles of Rohtas*." (*Calcutta Review*, April 1878.)

It is difficult to suppose Buchanan could have mistaken the date of the surrender, but on the other hand there are papers in the Calcutta Foreign Office which show almost conclusively that Rohtas fell into the hands of the English about the end of September. First, there is a letter of September 11th from Munro to Goddard telling him that Shah Mal, the governor of Rohtas, had agreed to surrender the fort, and directing Goddard to proceed to take delivery of the fort as soon as he had been joined by some troops from Patna.

Secondly, there is a letter of September 16th from Munro to the Council stating that Captains Goddard and Stables had gone to take possession of Rohtas.

Finally, the President informs the Calcutta Board on the 11th or 15th October (it is not clear which) that he had received a letter from Major Munro, dated the 2nd instant, reporting the surrender of Rohtas to Captain Goddard's detachment.

My reasons for calling this evidence not quite conclusive are, that I have not seen any letter from Goddard himself, and that it appears from Major Munro's letter of September 11th, that he had no clear idea of the geography of the country. He tells Goddard, who was then at Tikari, that upon the arrival of some troops from Patna, he is to march to Culvar (Koilar?) "sending harkarus with my letter to Shah Mal and one from yourself, acquainting him with your intentions and he will, upon seeing you and your party, come over to you with boats to carry your own detachment over the river and will put you in possession of the fort." Now Koilar is near the mouth of the Son and a long way from Rohtas. It was also held by the Vizier's troops, and Munro had some difficulty in crossing there on October 10th. It is just possible that Shah Mal may have surrendered the keys of the fort in the end of September, but that Goddard did not cross over and take possession till later. Captain Broome, in his history of the Bengal Army, says that Goddard afterwards marched down from Rohtas and took part in the engagement at Koilar on October 10th. But I do not know his authority for this, and it is singular that if Goddard was there on the 10th, he did not take part in the battle of Baxar on the 23rd. (See his evidence.)

The statement that Rohtas was surrendered before the battle of Baxar is also supported to some extent by the Sair-al Matakherin, but the account there given is not clear, there are no dates, and though the description of the surrender precedes that of the battle of Baxar, much cannot be inferred from this, as the

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death of Mir Jafar, which did not take place till February 1765, is also described earlier in the volume than the battle. As regards the truth of Mir Asad's story, however, it does not matter whether Rohtas was surrendered in the end of September, or in October or November. In any case Mir Asad may have brought treasure from the fort for which he received a receipt at Durgauti on October 11th.

One important point brought out by the Foreign Office records is that Mir Asad Ali was no myth, but a real person, who was at Rohtas in August or September 1764. In a letter-book at the office containing translations of Persian letters, we find (p. 486) a letter (No. 247) from Shah Mal, the governor of Rohtas to Major Munro, dated September 6th, and received in Calcutta on the 22nd idem. In it he writes, "I have had the honour to receive three letters from you, the first by your harkaru, the second by Gholam Husain Khan (the author of the *Sair*?) and the third by Mehdi Ali Khan, and I returned you three answers, one by the harkaru and the others by the aforesaid gentlemen, and therein represented my situation to you. Besides which I have written you three other letters and forwarded them to you, the first by a qasid of my own, the second by *Mir Asad Ali*, and the third by a harkaru in my own service. Doubtless you must have received them. I remain firm in this place in the hopes of your favour and protection." Then he adds that Mir Solyman has arrived on the part of the Vizier. In another letter, (No. 248) received in Calcutta, September 22nd but not dated, Shah Mal says, "You write that Mir Asad Ali has not yet arrived with the said papers. This surprises me much, perhaps he may have met with some accident on the road, or perhaps he may have gone by way of Tikari, and on that account may have been so long on his journey. \* \* \* Mir Asad Ali is a great friend of Dr. Fullarton, when he arrives he will inform you of everything, however, let not the sending of a detachment hither be deferred in case of his not arriving speedily."

The paper which Mir Asad Ali was to convey to Major Munro was a statement of the conditions on which Shah Mal was willing to surrender the fort. It, or a copy of it, which Shah Mal sent when he heard that Mir Asad had not arrived, was received by Munro and forwarded to Calcutta. The fact that Mir Asad was entrusted with a paper so important, and that he was also to explain matters *vis-à-vis*, show that he was a man of some position, and his being a friend of Fullarton's affords some evidence that he was an honest man.\* It is by no means unlikely that

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\* In the letter-book at the F. O. there is a good deal of correspondence about one Asad Khan Bahadur, but I believe he was a different person from Mir Asad Ali, because he is described (No. 190) as a jemadar in the service

he was paid Rs. 2,000 as he says he was, for his services in negotiating the surrender. Nor does the taking part in this transaction cast any imputation on his honour. He was Mir Qasim's servant, and Mir Qasim apparently preferred that Rohtas should fall into the hands of the English rather than into those of the Vizier and his faithless servant Mir Solyman. It is quite possible that Mir Asad may have returned from Patna in September with Munro's acceptance of Shah Mal's proposals, and may afterwards have conveyed treasure from Rohtas to Mir Qasim. We know that after the battle of Udha Nala on September 4th, 1763, Mir Qasim removed his wives and his treasure to Rohtas, and that they remained there for many months.

This fact—that Mir Qasim had treasure at Rohtas—is I submit a material corroboration of Mir Asad's evidence.\*

We may, I think, credit Shuja-ad-Daula and his treasurer with being likely to know what they were about when they put Ballaki in confinement and placed guards over Mir Qasim. They must have known that there was money to be got but that it was not in the camp. Had it been there, they could probably have laid hands on it at once, for Shuja-ad-Daula's army was the larger, and Mir Qasim was too timid a man to have offered resistance. They must have been aware, as we are now, that Mir Qasim had treasure in Rohtas, and that it was thus out of their reach unless they could put pressure on Mir Qasim and his servants and compel them to send for money for their ransom. What then more natural than to begin with Ballaki, the banker and army pay-master? There is therefore no difficulty in believing that Mir Qasim may have given orders shortly before the battle of Baxar for money to be brought from Rohtas or that Mir Asad brought it. The only question

of Shuja-ad-Daula and styled Mirza Asad Khan Bahadur. Prior to the battle of Baxar, Major Munro had a good deal of correspondence with some Mughul cavalry officers who were willing to leave the Vizier and enter the English service. One of their letters has been published by Mr. Long in his *Selections from the Records* (I, 358, No. 716) Mr. Long also publishes a letter from Shah Mal (No. 717) and his terms of capitulation (No. 718) but he incorrectly describes them as sent by the Nawab. In the F. O. there is a copy of a letter (No. 253) dated October 3rd, 1764, and sent to Asad Khan by the President of the Council.

\* A more thorough examination of "Calcutta Review" articles which bear on this subject would have saved Sir J. S. some errors. The "Chronicles of Rhotas" (April 1878) would have acquainted him with the fact of Mir Qasim's treasure being at Rohtas. It is the more singular that he has not perused this article because it is contained in a number in which is another to which he makes frequent reference.

Again he writes of Impey's letter to Governor Johnstone (I, 255) that it "had never been published" and "I discovered it—in the British Museum." Sir John Kaye had, however, already discovered it and published it in the C. R. (VII, 478, or *Selections* II, 572.)

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is about the receipts having been given at Durgauti, for it is said that Mir Qasim and his army were encamped at Baxar for a month or so before the battle. But in the first place, the receipt was not dated Durgauti, though Durgauti was mentioned in it, and it is possible that Mir Asad Ali may have forgotten the exact spot where he delivered up the treasure. In the next place, we do not know where Ballaki was confined by Shuja-ad-Daula's treasurer. Kista Jiban does not distinctly say that it was at Baxar, and it is not impossible that he may have been removed to some safe place in the rear of the army, or he might have been taken to the banks of the Durgauti as being nearer to Rohtas and the treasure. The Chief Justice said in his charge that Mir Asad stated that the transaction took place when Ballaki was *with the army* at Durgauti but I do not find this in the report. It may be an inference from what Mir Asad said, but it is not what he said, and it may be wrong.

It is a curious circumstance that in M. Raymond (Haji Mastapha's) translation of the Sair (353 and 354—the pages are mis-numbered 347 and 348) the name Durgauti is given to the little stream behind Baxar, where so many persons perished after the battle. It is described as separating the Vizier's camp from the Emperor's. If this is correct, there is no longer any difficulty about the receipt, but I am bound to say that I cannot find the word Durgauti in my copies of the Persian Sair and its Urdu translation, and that the river in question is generally called the Thora Nadi. It does not, however, seem likely that the translator would insert the name Durgauti without some authority, and it may be, therefore, that he found it in the MS. from which he translated. Besides this, if he who seems to have passed through Baxar two years after the battle could make a mistake about the name of the river, so too might the writer of Mir Asad's receipt. Captain Williams speaks of the Durgauti as a nullah running parallel to the Karamnasha and about four miles from it.\*

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\* Captain Camac said he believed there was a town called Doorgooty on the banks of the Son, but this appears to be another of his mistakes. The Durgauti (so called from its rising near a temple of Durga) rises in the Kaimur Hills, flows N. and N.-W., then N. E. till it joins the Karamnasha, 26 miles south-west of Baxar. Jahanabad stands on it. There is a post-town called Durgauti, on the west bank of the Durgauti and not far from the point where this is crossed by the Grand Trunk Road. This place is also known as Chaharia. About a mile south is the police out-post of Durgauti. The town of Durgauti is 36 miles from Sasaram and 32 S.-W. from Baxar. I am indebted for most of the above information to the kindness of Mr. Jenkins, the Sub-divisional officer of Baxar. Sir J. S. erroneously calls Captain Camac *Carnac*. It is strange that he did not know that Carnac was a Brigadier General in 1765. Camac, was also a witness in the conspiracy case brought by Hastings, he being called to explain the meaning of the word *baramad*. It may seem curious that a soldier was called on to

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Mir Asad stated that he delivered the treasure to Ballaki Das at a place called Dues Gauty (Durgauti) westward of Saseram (998.) Perhaps some discredit was thrown on this statement by Captain Camac's evidence when he told the jury that the Durgauti falls into the Son, though he too said that the Durgauti was crossed on the road from Saseram to Baxar. It is, therefore, worth while to point out that Captain Camac was mistaken for the Durgauti falls into the Karamnasha and not into the Son. As Mir Qasim was in possession of Rhotas till the end of September, it is by no means improbable that he, or the Vizier, may have had troops encamped on the Durgauti in October. We know from Kista Jiban that the army was once there, and it would be unfair to press too closely his recollection of the movements of an army so long before. He might be mistaken by weeks as to the time at which the army went into cantonments at Baxar. He was, I think, still less likely to be able to say where Ballaki was on October 11th, for he himself must then have been in confinement.

Kista Jiban was a witness for the prosecution as well as for the defence, and it seems to have been his misfortune, and that of Nanda Kumar, to be believed when he gave evidence for the prosecution and disbelieved when he supported the defence. Both Impey and Sir J. Stephen appear to have forgotten that Kista Jiban was the servant of Ganga Vishnu, and thus wholly dependent at the time of the trial on Mohan Prasad. At that date Ganga Vishnu was an invalid and living in Mohan Prasad's house. When Kista Jiban said that Mohan Prasad was a great man and that he was afraid of him, the cross-examining Judges (?) tauntingly inquired whether the Maharaja was not a greater man. This, I think, was both heartless and ridiculous. A brahman and a Maharaja might be intrinsically a greater man than a Calcutta broker, but the former was in the felon's dock, while the latter was all in all to the poor clerk who depended on him for bread. It seems to me that Kista Jiban was willing to tell the truth but that he was terribly afraid of Mohan Prasad. Impey's remark in his charge that Kista Jiban was not afraid to contradict Mohan Prasad about the army-books seems to me ill-founded. The matter was not of moment, and Kista Jiban may not at first have been aware that he was contradicting Mohan Prasad. I presume that he was not in Court while Mohan Prasad was under examination. Besides, he was asked about the books and had to answer. He might have done the same about showing the *kararnama* to

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explain a revenue term. The explanation is that he had been appointed by Hastings, in November, 1773, to the charge of one of his grand revenue divisions (Bardwan, Medinipur, Birbhum, etc.) (Haington, II, 202) and this may account also for his zeal in twice giving evidence.

Mohan Prasad if he had been asked.\* Kista Jiban did not recollect seeing Mir Asad with the army, but he admitted that he was not acquainted with even the principal servants of Mir Qasim, and it does not appear that Mir Asad was a principal servant. If Mir Asad's story be true, he was in camp for a short time only, as he brought the treasure from Rohtas and then returned there.† Kista Jiban must have been in a state of much trepidation at Baxar, and thus unlikely to be an accurate observer. He was in a somewhat confused state also when giving his evidence, for he began by saying that he was imprisoned *after* the battle.

What strikes me very strongly is that nothing was gained by mentioning Durgauti in the receipt if it was a concocted story and a forgery. I have shown that Mir Asad was Mir Qasim's servant and that he was in Rohtas in 1764. He must have known where the army was in October, and he, or whomever he got to forge the receipt, could as easily have put Baxar as Durgauti into it. Durgauti could not have been chosen to get rid of Kista Jiban's presence, for Mir Asad said that the former was present when the money was paid. Whether this was a mistake of his or of Kista Jiban's I cannot tell, but the rule is that when one witness asserts a fact and another does not recollect it, there is a presumption in favour of the positive statement if both witnesses are equally credible. Now Mir Asad was a man of some position. He received, as has been said, Rs. 2,000 from Major Munro, the conqueror of Baxar, and he was later superintendent (darogha) of the Patna Mint under Shitab Rai who knew and loved a brave man. He was an up-countryman, and came to Bengal with Ali Gohar, afterwards Shah Alam. Then he became the servant successively of Mir Qasim and Mir Jafar. He seems to me to have given his deposition in an off-hand, soldier-like manner such as would impress one with a belief in his veracity. He was cross-examined in a minute, and as I think, in a harsh and cruel manner, and he gave satisfactory replies. Thus, he was asked why he did not make over the receipt to Mir Qasim, and as to how the *nastanfi*, or accountant, could make up his books without the receipt? To this he answered very reasonably

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\* Sir J. S. has not read Kista Jiban's evidence carefully. The Chief Justice said in his charge that Kista Jiban "was not afraid to write the letter." Hereupon Sir J. S. remarks (I, 162) "I do not know what letter is herer eferred to." It is, of course, the letter to Nanda Kumar which Kista Jiban refers to some dozen times in his deposition. (1060-63.)

† This statement would not be disproved by the fact that Rohtas surrendered before the battle of Baxar, for Shah Mai, the governor, seems to have remained there for some time with Captain Goddard. (Sair-ul Matakheer. II, 338.)



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that the country was in great trouble, that Mir Qasim's household was in much disorder, and that the Nawab himself (Mir Qasim) ran away. He added that when his master went away he was at Rohtas, to which place his master had sent him.

We have not got the receipt, or a translation of it, but it is reasonable to suppose that it was of the kind ordinarily given to an escort, that is, for so many bags or boxes said to contain such and such treasure. This seems implied by Mir Asad's statement that he gave bags of rupees to Ballaki, but that he could not tell how much each contained. We are not told that the receipt specified the amount of the remittance. A receipt, such as Mir Asad was likely to get, and such as the one produced seems to have been, would have been of little use to an accountant, and we need not wonder therefore at its not being made over to the mastaufi, even if we suppose that accounts were being kept at Baxar. Ordinarily, an escort keeps the receipt which he gets. If the money was paid to Ballaki when he was in confinement, he only nominally received it, and can only have given a receipt to satisfy the commander of the escort. Why should he enter the money in his books if it was at once swept away by his gaolers? As Kista Jiban very simply and, truly said, "When a man is in confinement, he who confines him will take the money; whatever Ballaki Das had, Khaliq Yakut (?) took from him."

I therefore see no objection to Mir Asad's story, on the ground that Kista Jiban could not find an entry of the payment in the army books. If Ballaki was in confinement at the time, he would hardly have his books with him, and if he had, he was not likely to charge himself with money which he did not really get. He may have entered the receipt in his private papers which nobody used to see, and a boxful of which was lost at the battle of Baxar. (1024.) Or it may have been entered on the Persian department of Ballaki's business, about which Kista Jiban knew nothing.

Another point about which Mir Asad was severely cross-examined was as to how he had the receipt brought from Murshidabad. To this he answered clearly enough, that he had married a Bengali lady at Murshidabad, and that he had sent a letter desiring her to send him his amulet in which the receipt was wrapped up. She did so and sent a note along with it, and this seems to have excited the suspicions of the Judges, for they asked "Did she write it herself?" To which the witness replied by asking another question, "Do women know how to write?" Then Mir Asad was asked who brought the receipt to him from Murshidabad, and he answered, "One Shaikh Bazu" (?) and he described his appearance, and offered to bring him next day. He spoke of this Bazu first as his servant, and

then as his *rafiq*, and the Judges seem to have thought that this was a contradiction, and cross-examined him about it, though in the Glossary to the trial, which I presume was drawn up by Elliot, we are told "*rafiq*, literally a friend, but means all through the trial a half-friend and half-dependant."

The cross-examination as to how Nanda Kumar came to know about the receipt was, I think, unfair, because according to the practice of those days, the prisoner's mouth was closed. Although Mir Asad offered to produce Bazu, the court do not seem to have accepted his offer. On the other hand they called, or allowed to be called, no less than five Englishmen, among whom were a Colonel, a Major and a Captain, to contradict Mir Asad ! No doubt the appearance of so many honourable gentlemen was calculated to impress a jury, which was in part composed of East Indians,\* and which could not be expected to know that Captain Camac's geography was incorrect. This plan of calling rebutting evidence seems to have been followed all through the trial. Whenever a witness said anything in favour of the defence, witnesses were called to contradict him. Thus, when Mohun Das was examined and said that he was a merchant, one Jugal Latty (?) was called in, apparently\* to discredit him. So too was Ycandle the gaoler, and apparently also Mr. Durham the counsel for the prosecution called in to contradict Manahar Mitra. All this may have been in accordance with the English practice of the day. This is a point which I must leave to Sir James Stephen to decide, but to me in my ignorance, it seems strange, that after the case for the prosecution had closed, they were allowed to give rebutting evidence. One does not see why this should not have been followed by subrebutting evidence on the part of the defence, and so on *ad infinitum*.

An important point about the receipt, if it was genuine, is that it shows that Ballaki executed papers in Persian, and sealed, but did not sign them. This was the way in which the bond alleged to be forged was executed, and we learn from Kista Jiban, that Ballaki executed Persian papers in this way. He tells us, (1035,) that Ballaki used to sign Nagari papers, and put his seal on those in Persian. He also said that when Mir Qasim's sipahis brought drafts for their pay, Ballaki Das took the drafts from them, and gave them a paper in Persian, on which he put his seal. This passage is interesting

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\* Mr. Long (C. R. Sel. 1,789) tells us that Weston was an East Indian, and it is probable that others of the jury were so too. Some of them were, at all events, country-born, for Inipey said in his charge "some I see who were born here." Englishwomen were scarce in those days, and it is probable that most of the country born were half-breeds like Weston, who was the son of the Recorder of the Mayor's Court. In any case, men born and bred in India could not have had home training.

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as showing that Ballaki acted as army-paymaster for Mir Qasim, and that Mir Asad's receipt was such as Ballaki would have been likely to give.

On the whole, I can see no good reason for rejecting Mir Asad's evidence, and if it was true, it was a strong admission of the case for the defence. Sir E. Impey may be excused for doubting it as he had been only eight months in India, and had not access to histories or maps. There is less excuse for Sir J. Stephen: he has, indeed, been altogether unfortunate in his remarks about the receipt. In addition to errors already noticed, he tells us that it was dated 28th Assum, (Aswin) 1174. Half of this mistake is due to Mr. Elliot or to a misprint, for Elliot is made to say 1174, though probably he really said 1170; but the other half is Sir J. Stephen's own. Elliot did not say that the receipt was dated 28th Aswin 1174. The only date on the receipt was the Muhammedan one, 14 Rabi-as-sani, and what Elliot is reported to have said, is, that this date corresponds to 28th Aswin 1174. In fact, the date seems to correspond to one a day or two later, the end of Aswin or the beginning of Kartik 1170. This brings the date nearer to that of the battle, but does not, I think, increase the improbability of its being genuine. I beg to remind my readers that we have not the receipt, nor a translation of it, and that a slight mistake in the Persian, or in Elliot's reading of it, might make a great difference in the date: thus, if the date had been 4th instead of 14th Rabi-as-sani, or if Rabi-as-sani, (also called al-akhir) had been written or read by mistake for Rabi-al-awal! The difference between chaharam and chahardaham in Persian shikast writing is very slight, and we know that mistakes of this kind often occur in Persian MSS. and books. We have an instance of this in the account of Nanda Kumar's execution given in the *Sair-al Matakherin*. In the translation quoted by Sir J. Stephen, (I, 265,) the date is given as 17th Jamada, and this seems to be correct, as it corresponds, or very nearly does so, with 5th August, but in a Persian edition published at Lakhnau, the date given is 7th Jamada-as-sani.

I think we may fairly draw some inference in favour of Mir Asad's veracity from the fact that the prosecution against him for perjury was unsuccessful. This, we know, from a letter of Impey's (to Thurlow?) dated Jan. 20th 1776. According to the account therein given by him, it was the jury who asked the Court to prosecute the principal witnesses for the defence, whereas it would appear from Brix' letter to Farrer that the prosecution was undertaken at the instance of the Court. The important fact, however, is that the proceedings were abortive, Impey's account being that "from the testimony having been delivered in Persian and interpreted to the Court and want of

skill in drawing the indictment, it was found impracticable to prosecute the offenders to conviction."

In the same letter, Impey refers to the correspondence between Farrer and the foreman of the jury (Robinson) about recommending Nanda Kumar to mercy. Sir J. Stephen says (1,230) that Robinson appears to have complained to Sir E. Impey, and though I am anticipating what should properly be mentioned in a subsequent article, I cannot resist the temptation of pointing out that this was not the way in which the matter was brought to the notice of the Chief Justice. The correspondence was sent to him by a Mr. Belli and accompanied by the following introductory note. "Mr. Belli presents his respects to Sir E. Impey and at Mr. Robinson's request encloses him a second address from Mr. Farrer to Mr. Robinson, with Mr. Robinson's reply to it"—"the word victim in Mr. Farrer's address is very remarkable." This was on August 1st 1775. Now who was Mr. Belli? I do not yet know what he was in 1775, but in 1777 he was Warren Hastings' private secretary, and I presume he must have been so for some time, for Hastings had so much confidence in him that he gave him a large contract for victualling Fort William. \* We know too from Price that Mr. Robinson was a private friend of Hastings. I appeal to my readers if this is not evidence of Hastings' taking part in the proceedings against Nanda Kumar. If Belli was private secretary in 1775, I should say that the evidence was almost conclusive, for there could hardly be any thing stronger than the fact of the Governor's Private Secretary writing to the Chief Justice after the conviction, and with the obvious intention of getting Farrer censured and of preventing Nanda Kumar's respite.

I have been thus minute in my account of the episode of the receipt of Mir Asad Ali on account of the great importance which has been attached to it by Sir E. Impey and Sir J. Stephen. It may be treated as an incident in Ballaki's life, though perhaps it more properly belongs to the history of the trial. It, however, suits my purpose to point out Sir J. Stephen's error concerning it without the delay which must otherwise occur. I now resume the biography of Ballaki Das.

#### LIFE OF BALLAKI DAS. (*Resumed.*)

The battle of Baxar was fought on October 23rd, 1764, and though it restored Ballaki to his liberty, he was plundered of

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\* The contract was renewed or another granted in 1779, for Francis writes in his journal under date August 9th, 1779—"Contracts for Dick Johnstone and Belli for five years. Oh! monstrous! I declare I will not sign them." Again on 28th idem, "Write a joint minute against the infamous bullock contract." September 2nd. A most impudent, rascally minute from Hastings about Belli's contract."

everything he possessed. He lost a box of private papers and escaped with nothing but the coat (jama) on his back. We learn a good deal of his subsequent movements from the curious work of Mr. Bolts already referred to. There are a number of minutes (Vol. 3, part 2, app. A, pp. 52 to 119, Ed. 1775) relating to a quarrel between Lord Clive and a civilian of the name of George Gray, and in these the name of Ballaki turns up pretty frequently. Gray had been Chief at Malda, but in September 1765 he was a member of the Council of Fort William, and probably also Collector of Calcutta. Clive accused him of levying a tax on prostitutes and bluntly wrote to him "Sir, Complaint has this morning been made to me, that you are taking money from the whores of the town, which I understand is a practice prohibited by the Company; and, therefore, I desire you will discontinue it until you are authorized to the contrary by the Governor and Council." Gray defended himself by saying that he took the money from the women for their own good, in fact he was a precursor of the C. P. Legislators. Clive was not the man to brook opposition, and on finding some other charges against Gray, he arrested his banyan Ram Nath Das, and kept him under a military guard, though this was in the town of Calcutta. Gray was indignant at his servant's arrest, and in the discussion which followed, he put some very awkward questions to Clive, such as whether he did not deceive Amichand by a fictitious treaty, and if he could account for Admiral Watson's name appearing on the treaty, though Watson had refused to sign on the ground that to do so would be derogatory to his character as a British officer. To do Clive justice, he had the manliness to answer Gray, though his questions were irrelevant, and offensive, and to tell what had been done on the occasion of the treaty with Amichand. Whatever we may think of the sufficiency of Clive's defence, his conduct in meeting the accusations was better than the skulking behaviour of Hastings when he was accused by Nanda Kumar. The one man boldly said what he could in his defence, and the other shuffled, and by dint of various subterfuges, contrived to evade every attempt to bring him to book. This was perhaps good policy at the time, but the result is, that in order to show that Hastings ever denied the receipt of the presents, his latest apologist has actually been driven to quote and use as evidence an anonymous note on a lawyer's brief. (Stephen, I, 73.) Another question which Gray put to Clive is more relevant to our purpose, and was as follows: "Whether you did not give a parwana to Ballaki Das, assuring him that he might carry on his business with confidence? And, on your return to Calcutta, finding this man a suitor to the Board for recovery of a sum of money lent to the

Company in 1763, in a time of distress, which surely entitled him to the Company's favour and protection, whether your Lordship did not send a chobdar to order him to quit the settlement, when it was known that the harpies and spies of Mahomed Reza Khan and Jagat Seth, his known enemies, were hovering about to seize him the moment he quitted Calcutta? Whether after thus turning out a man under the Board's protection, you did not, in a few days, send for him back? Whether you have not since received him with favour? And whether you have not been endeavouring to collect from this man information against me?" To this Clive replied as follows:—"I did write a parwana to Ballaki Das, in answer to a letter from him, the beginning of July last; but when I heard, from Jagat Seth what an enemy he had been to their fathers, (sic) I forbade him to come into my presence, and upon my arrival ordered him to quit Calcutta. But upon Mr. Gray's minute, I ordered Ballaki Das back again, to give the evidence I had before been informed of concerning Ram Nath's conduct, in which Mr. Gray seems to be strongly interested; and I shall certainly not decline to receive complaints of such grievances as affect the honour or advantage of the Company; nor will there be any occasion, as Mr. Gray alleges there will, to make use of force or threats to obtain them. With regard to harpies and spies being employed to seize Ballaki Das when he quitted Calcutta, I never knew nor heard of any. I have given Ballaki Das no encouragement; so far from it I have told him that when he has given his evidence on oath, he must not expect the liberty of residing in Calcutta." I suppose that the allusion to Ballaki's behaviour to the Seths must refer to some suspicion that he was concerned in the murders of the father and uncle of Jagat Seth at Barh. Though Ballaki also was called a Seth, there was no relationship, and probably no friendship between them. Ballaki was an up-countryman, and a Vaisya, and the Seths were Bengalis, I believe, and according to Bolts, weavers by caste. X.

Gray rejoined to Clive's reply as follows:—

"The affair of Ballaki Das, I shall relate from the beginning. Very soon after my arrival in Calcutta, Ramnath informed me that Ballaki Das had sent down one Sham Lal in order to solicit for leave for him to return to Bengal. He had been a banker, or shroff to Mir Qasim, and was carried up by him in his retreat; and after suffering of many hardships both from Mir Qasim and Sujad-Daula, he was at last absconding, and afraid to come down lest he should be seized and plundered by the officers of the Nabob's government.

"I thought his case particularly hard, whilst several men who had been in Mir Qasim's actual service, and in arms against us, found forgiveness and protection, that he, a merchant, and of course no member of the Government, nor servant of the Nabob's, should be deprived of the benefit of peace and our protection. After Sham Lal had set forth Ballaki Das' deplorable state in affecting terms, I informed Mr. Spencer, then Governor, of what I had heard; and he concurring with me in opinion, that it

would be beneficial to the country to give Ballaki Das, and every other merchant who might be in the same circumstances, encouragement to resettle in these provinces, from a motive of real humanity as well as from a political view, that gentleman granted him a parwana to return. I sent the parwana, and a letter of my own, under care of Ramnath, together with Sham Lal, who only knew the place of retreat before. It occurred to me, that Ballaki Das had wrote, but now I recollect, that having asked if Sham Lal had brought any letter from Ballaki Das, I was informed Ballaki Das was afraid to write, lest his letter, falling into the hands of improper people, might discover his retreat and ruin him; and therefore he preferred the verbal application of his gomastah. Be that as it will, Ramnath and Sham Lal went up, and what occurred amongst them after their departure I know nothing of; but at last they returned with Ballaki Das, who, on his arrival, expressed very great satisfaction in the protection and favour he had received; and sometime after he offered me a present, which I had no intention of profiting by, to the truth of which I can bring undeniable evidence."

"Ballaki Das had obtained a parwana from Lord Clive, of which I present a copy, and desire it may be translated and annexed. This, as well as Mr. Spencer's parwana, was sufficient sanction for him to remain here in security. He accordingly lived in the place openly, and made an application to the board for payment of a sum of money\* borrowed from him at Dacca; and no objections were ever started to his residing at Calcutta, until the return of Lord Clive, who, notwithstanding the circumstance of his own parwana, and Ballaki Das' application to the Board, sent his chubdar with orders to turn him out of our settlement and protection. Ballaki Das, in the utmost distress and apprehension of his life, should he fall into the hands of Jugat Seth, his mortal enemy, now so much in power, or of Mahomed Reza Khan, a great number of whose spies were lying in wait for him, sent to inform me of his situation, and begged I would save his life and honour. I was shocked at this transaction, and sympathizing with the distresses of a man to whom I had promised assistance, I thought it my duty to give him shelter in one of the pergunnahs under my charge. He remained in this retreat, till after I had desired Lord Clive to lay before the Board the informations he had received touching my conduct; when his Lordship in diligent search for charges against me, having discovered Ballaki Das' retreat, sent for him to town, received him into favour, and demanded a relation from him of all that had passed between him and me."

"I remember something of Ramnath or Sham Lal's mentioning the great obligation Ballaki Das would lay under to me, if I could assist him; and that he would not fail to acknowledge it by a considerable present; to which I answered, it is very well, I shall be glad effectually to assist Ballaki Das, and then it will be time enough to think of a present, or words to that import. But by this I never intended to imply or authorize a bargain for myself; and my subsequent refusal of an offer actually tendered to me by Ballaki Das himself, should put the matter beyond a doubt."

"I must take this occasion to represent to the Board, that I have been informed Lord Clive makes a practice of sending for people produced as evidence against me; and that he, or his munshi, (Naba Krishna) holds private conversations with them touching their informations."

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\* *Not of Bolts.* - "No less than 230,000 rupis, which he lent the Company in their distress in 1763. Not being able to procure justice in Bengal, Ballaki Das was reduced to the necessity of sending an agent to England, to solicit payment from the Directors, who at last gave orders to their President and Council to pay off his demand. See letter H., numbers III. to VII. But Ballaki Das did not touch the whole amount."

## *The Trial of Maharaja Nanda Kumar. 123*

It will be seen from this extract that Ballaki was carried up-country with Mir Qasim when he fled after the battle of Baxar, but that he afterwards separated from him. It would appear (1028) that Benares was the place where he was in hiding, and whence he was brought down by Sham Lal and Ramnath. Ballaki first got permission to return to Bengal from Mr. Spencer the predecessor of Clive, but it is probable that he did not come down till July 1765 when Clive wrote to him as follows: "Set your mind perfectly at ease, carry on your business without fear, and look upon me to be well disposed towards you." It is just possible that Sham Lal was identical with Sham Bagchi, the servant of Hazari Mal, and formerly master of Madhab Rai, one of the witnesses to the forged bond. And I think it very likely that Ramnath was none other than the man whom Mohan Prasad suborned to give evidence at the trial for forgery, and who did give evidence before Lemaistre and Hyde at the commitment on 6th May, but who afterwards recanted, and so was not examined by the prosecution at the trial but was called by the defence. (Possibly, however, even his evidence on 6th May was against the case for the prosecution.\*) At all events both men were called Ramnath Das and were residents of Malda.

Ramnath the banyan of Mr. Gray was, according to Verelst and Clive, a man of very bad character, who had committed great atrocities on the people of Malda. He was, however, very badly used in his turn, being kept in confinement in Calcutta and Murshidabad, and subjected to extortion at the hands of Raja Naba Krishna, Clive's munshi. This Naba Krishna was a witness in the forgery case, and the Chief Justice and Sir J. Stephen seem to have been much impressed by his testimony, and especially by his unwillingness to depose against Nanda Kumar. Perhaps they would have given less weight to his testimony, if they had known his moral character as shown in Bolts's work, and that he was on bad terms with Nanda Kumar on account of the latter's having taken part in prosecuting him on a charge of having violated a brahman's wife. A Hindu who could be accused of such a charge, was not likely to be very scrupulous about giving evidence against a brahman. If the charge was true he was a scoundrel, and if it was false he could not have much reverence for brahmans or for Nanda Kumar, when he knew that the latter had joined with another brahman to bring an odious charge against himself.

Of course Gray got the worst of it in his quarrel with Clive and he had to resign the service. His last words about Ballaki Das are in a letter dated February 8th, 1766, in which he says

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\* He was threatened with commitment; this, I suppose, was because he deviated somewhat from what he said on May 6th.



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that Ballaki was always grateful to him for the assistance he afforded him in his distress, and would never have given any information to his (Gray's) prejudice had he not been compelled to do so.

When Ballaki first came to Calcutta he put up in the house of Hazari Mal in the Bara Bazar. This Hazari was a well-known merchant and a brother-in-law of the famous Amichand. It was while living in his house that Ballaki was said to have executed the bond which was the foundation of the charge of forgery. For a copy of the translation of this bond I beg to refer my readers to the report of the trial or to the "Story of Nuncomar." I shall discuss the question of the genuineness of the bond more fully hereafter ; meanwhile I have to point out that Sir J. Stephen's remarks (I, 125 and especially the note) lead me to doubt his having perused the bond with attention. He expounds the law about depositaries, and observes that Ballaki must have considered it very hard to be called upon to make good the misdeeds of the people who plundered his house at a time of confusion. But the bond does not say that the jewels were simply deposited. They were placed with Ballaki to be sold ; and as this was done more than seven years before, (June 1758) Nanda Kumar might reasonably say that Ballaki should have sold them, and that if he chose to keep them for seven years and two months and then lose them, he was bound to make the loss good. Besides this may have been only Ballaki's way of accounting for the disappearance of the jewels. He may really have sold them or otherwise disposed of them, and then ascribed his not having them to the troubles of 1764.\* The bond recites that Ballaki's house at Murshidabad was plundered at the time of the defeat of Mir Qasim, and that the jewels were taken away then. This excuse seems a bad one, and I do not wonder at Nanda Kumar's refusing to accept it and insisting on a bond. Ballaki is said to have told Nanda Kumar that his houses had been plundered, both at Dacca and at Murshidabad, and that the Company owed him a great deal of money, and that he could not pay then. It seems to me very likely that what Ballaki called plundering was the taking possession of his house and money by the Government. He was with Mir Qasim's army, and therefore liable to be treated as a rebel. It may have been in this way that over two lakhs of his money came into the hands of the Company.

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\* Sir E. Impey suggested this to the jury, and I think it was a reasonable remark, though I cannot agree with Sir J. Stephen in thinking it not an obvious one. I am sure that it was one of the first which would have occurred to a native mukhtar who was defending Nanda Kumar, or to a Civilian Judge who was trying him.

## *The Trial of Maharaja Nanda Kumar. 125*

Sir J. Stephen is mistaken in supposing that the money was in bonds. There is nothing about bonds in any of Ballaki's documents; they are not mentioned in the jewels-bond, nor in the letter Ex. L, nor in the power of attorney, nor in the will, and the fact is, as Captain Price tells us, they were not in existence until the money was paid to Ganga Vishnu. The fact that there were no bonds would increase the difficulty of Ballaki's getting his money, and we know that he never did get it. He tried to do so for about four years, but it was not till the year after his death, and when Verelst was going home, that the money was paid. The long delay, and the fact that Ballaki spoke in his power of attorney of darbar expenses as being necessary, would be sufficient to show the falsehood of Mohan Prasad's assertion that the bonds were obtained without expense, if indeed this story were not too absurd in itself for credence.

If the defeat of Mir Qasim's army referred to in the bond, be the battle of Baxar, I do not see any connection between that event and that the plunder of Ballaki's house in Murshidabad. Any fighting and plundering which took place at Murshidabad seems to have occurred in July 1763, *i.e.* fifteen months before the battle of Baxar. The hearsay statement of Kista Jiban about plundering cannot be relied on. Nanda Kumar's witnesses, Jai Deb, Chaitanya Nath and Yar Mahomed did not say that Ballaki made any reference to the jewels. The only witness who referred to them was Lalla Doman Singh, and he said the conversation took place before the attesting witnesses arrived. It ought to be remembered that Nanda Kumar was not the first person to speak about darbar expenses. Not only are these mentioned in Ballaki's power of attorney, but Mohan Prasad himself tells us (965) that Padma Mohan spoke to him about such expenses before he saw Nanda Kumar. He "mentioned some circumstances concerning Gokal Ghosal and Naba Krishna;" and he said "you must prepare a jewel and then the gentlemen will pay you your money." Now we know, and Chittagong\* knows, what sort of a man Gokal Ghosal was, and it is not to be believed that he or his master Verelst, or Naba Krishna, who was another of Verelst's banyans, would allow money to pass through their hands without levying toll on it. Compare the curious remark in Bolts' note to Gray's narrative: "Ballaki did not touch the whole amount." Bolts' third volume was published in 1775. His meaning may be that Ballaki died before he got the money, or that darbar charges were deducted. Possibly he is referring to Nanda Kumar and the civil suit against him.

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\* See Mr. Cotton's revenue memorandum.

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We learn from the following letters of the Court of Directors the real nature of Ballaki's claim. These letters are so honourable to the Court, and it is so refreshing to come across instances of fair dealing at this time, that I have much pleasure in quoting them in full. They are to be found in Bolts' work. Ballaki, in despair, had sent a power of attorney to Bolts in England, and he applied to the Court, who in turn showed him that proper orders had already been passed.

Appendix to considerations on India affairs. Part II, Vol. III, p. 581 (Bolts, 1775.)

Copy of the 84th Paragraph of the Company's General Letter to Bengal. Dated the 21st November 1766.

"On your consultation, 12th August 1765, appears a demand of Ballaki Das, for payment of 230,000 rupis, lent the Company shortly after the breaking out of the war with Mir Qasim, and which sum, you represent, had been passed to the credit of Mir Jafar, on appearance of its having been the property of Mir Qasim; and agree, that the President shall apply to the Naib Subahdar, to obtain him recovery thereof. But as we cannot trace any farther steps in this affair, you are to inform us of the issue; or if no such application was made, you must assign your reasons for it, as it does not appear to us you had sufficient grounds to believe the money to have been Mir Qasim's property."

Copy of the 119th Para. Dated the 11th November 1768 :

"Notwithstanding we gave directions for your making a particular inquiry into the demand of Ballaki Das, we have received no farther information thereon, and can trace no other steps taken in the affair than your resolution to make such an inquiry. Such extraordinary remissness in an affair of this consequence cannot fail to be very displeasing to us; more especially as it prevents our giving a satisfactory answer to his attorney, Mr. Miguel Van Colster, who is come to England to solicit the payment of the money. We therefore positively repeat our orders for making the most circumstantial examination into this affair, and reporting the result thereof to us by the earliest opportunity. Copy of Mr. Van Colster's memorial to us goes in this ship's packet, together with his draft on Ballaki Das for £100 which we have advanced Mr. Van Colster for his subsistence in England."

Copy of the 77th Para. Dated the 17th March 1769 :

"Since we wrote you on the 11th November last, Paragraph 119, regarding the demand of Ballaki Das, having received another memorial from his agent, Mr. Van Colster thereon, we send inclosed a copy thereof and farther direct, that you immediately set about a very particular examination whether the money lent the Company by Ballaki Das, as mentioned in our letter of the 20th November 1766, Paragraph 84, was actually his property or not; for this purpose you must apply to all such persons as you think can give any insight into this matter, and in particular to the Officers of the Government at Dacca, and to Mahommed Reza Khan, who, we suppose, held a principal post in that Government at the period when the loan was made. Upon the whole, you are to do strict justice betwixt him and the Company in this affair; and enter your proceedings thereon on your records for our information. We have lent Mr. Van Colster the farther sum of £500 to defray the expenses he has incurred in England, and charges of his passage to India; for which he has given bills on Ballaki Das, which are inclosed in the packet herewith."

Sir J. Stephen has been led into several mistakes by thinking that the money which Ballaki sought to recover was in

bonds. He observes (1,126) "There is something suspiciously complete in the whole document," i. e., the jewels bond. "Why was it necessary to enter into such a long story in order to explain what the bond treats as an absolute liability?" Besides the promise to pay, "when I shall receive back the sum of two lakhs of rupis and a little above, which is in the Company's cash at Dacca" looks as if a foundation were being laid for the demand being made on the payment of the Company's bonds at Belvedere through the intervention as was said, of Nanda Kumar. Probably something of this sort was in the mind of Mohan Prasad when, in answer to a question as to the time when he was so far certain of the forgery as to prosecute, he said; "when I saw the amount of jewels, the name of Rogonath" (the alleged depositor as to whom no account was given,) "and the mention of plunder, I knew it was forged, and from the nature of the bond, which is not regular in itself, being conditional: bonds are not commonly made ~~at~~ so when money is received." Probably Sir J. Stephen has not seen many bonds executed by natives of India; I can assure him that what he regards as a long and unnecessary story is just what a native would be likely to put into a genuine bond. It might, however, have occurred to him that if the bond were a forgery, the forger would probably be so far an adept at his trade as to insert only what was usual. What Mohan Prasad meant by saying that bonds were not commonly made out conditionally when money was received, it is difficult to say. The observation was irrelevant here for no money was received when the bond was executed.

Sir J. Stephen's remark concerning the laying a foundation for the money's being demanded when the Company's bonds were paid, is very curious. I have no doubt that in one sense such a foundation was being laid, but it was a good honest foundation, and Nanda Kumar and Ballaki joined in laying the stones. The quotations which I have above made from the Court of Director's dispatches show, that the money had been lent at Dacca, for they particularly enjoin the making of inquiries from the officers of the Dacca Government. Similarly the list of Ballaki's assets given in his power of attorney of January 1769, (94.) is headed by the entry "the English Company at the Dacca factory" \* the bond, therefore was drawn up in accordance with facts. Further, I think that the reference in the Court's letter to the Company's consultation of 12th August 1765, throws light on Ballaki's assertion that he has been plundered at Dacca. As we know from Gray, Mahomed Reza Khan was Ballaki's great enemy, and as he was in charge of the Dacca Government

\* See also Gray's account of the matter.

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he may have laid hold of Ballaki's property at Dacca, as soon as the breaking out of the war, and Ballaki's absence with Mir Qasim gave him an opportunity and an excuse for doing so. I have not yet seen the consultation of 12th August 1765, but I can hardly believe that the money was lent to the Company in the ordinary way of business. Ballaki seems to have been with Mir Qasim when the war broke out, and therefore he could hardly have been at Dacca, and have lent the money there to the Company shortly after the breaking out of the war. And if he had done so, he surely would never have ventured afterwards into Mir Qasim's camp, or have escaped being put to death by that jealous prince. Besides, it is hardly credible that the Company would first borrow the money from Ballaki, and then turn round on him and say that the money was not his! For all these reasons, I am of opinion that the money was taken as a benevolence, or forced contribution, and under circumstances which might well be designated by Ballaki as plundering. If so, that is, if the plundering was by constituted authority, and not by a mob, or by the soldiery, I see nothing hard or improbable in Ballaki's consenting to repay Nanda Kumar when he got his own again. I shall hereafter show that he himself called upon one Mir Ashraf to restore a boat and other things which he had deposited with him during the troubles.

It is important to notice the date of the Bengal consultation. It was 21st August 1765, and therefore just eight days before the execution of the jewels-bond. At that time Lord Clive was Governor, and Nanda Kumar was a man who, at one time at least, had influence with him. Clive had upheld Nanda Kumar in old times against Hastings, and both men were supporters of Mir Jafar, and vexed at his supersession by Mir Qasim. The scurrilous life of Nanda Kumar published by Sir James Stephen tells us that Clive was at one time so partial to Nanda Kumar that the people called him the black Colonel. It is true that the life goes on to say that Clive found Nanda Kumar out, and would not employ him, but it also says that he was protected by Naba Krishna, that is, Clive's munshi. I think therefore that we may hold that Nanda Kumar had influence with Clive in 1765, and that Ballaki may have considered him as a likely man to procure him payment of his money. Nanda Kumar's influence seems to have continued throughout Verelst's government, for he often went to Belvedere, and I find from Bolts, (Vol. I, app. 57) that in 1768, or 1769, Verelst reversed two decisions of the Mayor's Court against Nanda Kumar, and decreed the cases in his favour.

Ballaki lived, as has been said, for some time in Hazari Mal's house in Bara Bazar, then occupied another in the same Bazar and east of Mohan Prasad's, and eventually put up in Mohan

Prasad's house. He does not seem to have done well in Calcutta and I suppose he never recovered from the blow inflicted on him by the battle of Baxar and the ruin of his patron. The locking up of two and a quarter lakhs of rupis in the Company's treasure chest at Dacca, must also have been heavy on him. On one occasion he got into trouble with the Court of Kachahri and was imprisoned for a night and a day: possibly this was a punishment for contempt, as we find that he went to Chandernagore to avoid service of process. It may be, too, that he was mixed up in some way with Mr. Bolts who was deported in September 1768. There is a reference to Mr. Bolts in the power of attorney, and in Exhibit Q there is a large item of payment on account of a lawsuit in the Mayor's Court to which Mr. Sparks, a friend of Bolts, was a party.

It was while in Chandernagore that Ballaki gave a bond of 10,000 to Nanda Kumar—it was written by Mohan Prasad's brother, probably in Nagari, for Mohan Prasad seems to have been an up-country-man, and he was of the same caste as Silavat, and therefore, probably, as Ballaki (1955.)

In January 1769—nine days after the middle of Paus 1825, Sambat—Ballaki was in bad health and resolved to go to Benares. With this in view, he drew up a power of attorney in favour of Mohan Prasad and Padma Mohun. In it he says that he is not concerned in trade in Calcutta. Some of his debts and credits are set down, and among them the bond for Rs. 10,000 in favour of Nanda Kumar. This last entry was relied on by Mohan Prasad as proof that the bond for Rs. 48,021 was a forgery, as otherwise it also would have been mentioned. No doubt this is evidence against its genuineness, but, on the other hand, the list of debts is confessedly incomplete. It does not contain the amount of the money due by the Company, though this was by far the largest part of Ballaki's estate, and at the end of the list it is written —“ This is wrote by guess, and besides this, whatever may appear from my papers is true debts and credits.” In fact the list was not drawn up by Ballaki at all. It was prepared in Calcutta by Kista Jiban, in Ballaki's absence, and taken to him in Chandernagore for signature by Padma Mohun. It also appears from Kista Jiban's evidence that he did not go further back in preparing the list from Ballaki's books than 1766. The earliest date in his books was, he says, 13th Sravan 1823 Sambat, and this, he added, corresponded to a period rather less than nine years and two months before the day when he was giving evidence. As his deposition was taken on June 9th, 1775, the earliest date would be April 1766. Now the bond alleged to be forged was dated 7th Bhadra, 1172, i.e., August 20th 1765.

Two things in Ballaki's power of attorney are deserving of

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notice: one is the allusion to darbar expenses already referred to by me; the other is the mention of a saraf named Raghu Nath Deo. This may possibly be the Raghu Nath referred to in the bond of 1765. Sir J. Stephen says that no account was given of Raghu Nath. (I, 126) I think it was for the prosecution to disprove his existence; but I gather from the mention of his name in the power, and from Mohan Prasad's question to Kista Jiban about Raghu's books (957) that there was no doubt that such a man existed. In the power of attorney there is the entry on the credit side, "the English Company at the Dacca Factory." No amount is given, which shows the hurried way in which the paper must have been drawn up, but it is clear that this must refer to the two lakhs and upwards which had been borrowed, or taken from Ballaki. After the list of debits and credits there occur the following words, "the bond of Mir Ashraf\* was sold to Mr. Bolts; the bond of the Court of Kachahri, as well as the Kararnama, or written agreement, which he gave in the name of Mohan Prasad. He took the seal (?) In the name of Mr. Sparks the wakil; upon it Mr. Sparks filed a complaint in the Adalat; you will appear, and answer about it." This is an interesting passage as it shows Ballaki's connection with Bolts, and may explain how he afterwards came to employ him in trying to get payment of his dues from the Court of Directors. In a letter, Exhibit L, which Ballaki wrote some months afterwards, he speaks of his being unjustly oppressed. It is not improbable that this may refer to some trouble he got into from his connection with Bolts. The power was executed in January 1769, and in the September previous Bolts had been forcibly sent to England.

Mir Ashraf lived temporarily at least in Hugli, and owed money to Ballaki, who employed Mr. Gray to get payment of the debt. Gray wrote two letters to Mir Ashraf which are published in Bolts's work, (II, 86) and it is amusing to find from them that Ballaki was demanding from Ashraf property which he had deposited with him at the time of the war with Mir Qasim. Mr. Gray writes, "I am informed by Seth Ballaki Das, that he lent you a small sum of money when you were in want; that moreover, during the troubles of Mir Mahomed Qasim, he lodged a bajra boat, and some other goods in your

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\* Can this Mir Ashraf be the man referred to in Mr. Vansittart's letter of March 16th, 1765, (Price's letters, 48,) as having discovered to Government Nanda Kumar's treasonable correspondence with Rajah Balwant Singh of Benares? There is a Cummar-ul-deen mentioned in this letter as the Munshi of Sir Robert Fletcher. Could this be our friend Commaul? If so, it would dispose of his story, that his old name was Mahomed Commaul. However, Cummar (Qamar) ought not to be the same name as Commaul (Kamil).

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hands, and that you have not yet repaid the money, or given back the bajra and goods." The second letter was to the effect, that as Ashraf had come to see Mr. Law, he might as well come and see Ballaki face to face. These letters seem to show that Ballaki had no scruples about demanding back property which had been deposited in the time of the troubles, though Sir James thinks this so harsh and unusual when done by Nanda Kumar. Sparks sued Mir Ashraf on his bond in the Mayor's Court, and then a tempest arose because Bolts's enemies said that he was the real purchaser, and that he, an Alderman of the Court, trafficked in cases which came before him. On February 15th, 1769, Sparks wrote to Bolts, "Your good friends of the Council, and some of your right worshipful brethren began first with me, about the purchasing Ballaki Das' bond; but as there happened a pretty full bench at the discussing that point, a letter was wrote by order of the Court, that they could find no impropriety in said purchase. However there wanted not some who thought, and still do think, you the real purchaser, and that I only lent you my name; and from these ill-grounded suggestions, they would endeavour to taint your integrity as a judge of that bench, by insinuating that you bought up suits at the determination of which you intended to sit, a judge in your own cause; and from thence they pretended to reconcile the necessity and reasonableness of your disgrace, in being expelled the Bench; thereby searching for a crime after having inflicted the penalty." It will be seen that if the statement in Ballaki's power of attorney was correct, Bolts was the real purchaser. I conjecture that Ballaki sold the bond to enable its being sued on in the Mayor's Court, as suits entirely between Natives were not cognizable there.

According to Sparks, Verelst put up Mir Ashraf to sue him for damages sustained in the suit against him on Ballaki's bond. Possibly Sparks indemnified himself by suing Ballaki, for in exhibit Q, (1056) there is an item of Rs. 26,000 paid to Lewis Calustry, (Van Colster?) attorney to Mr. Sparks, on account of a decree in the Mayor's Court.

I am doubtful if Ballaki ever went to Benares. The whole thing may have been a device to enable him to escape notice. At all events, we find him back in the neighbourhood of Calcutta in May 1769. He was then in Chinsurah, from whence he wrote the following letter to Nanda Kumar:

### EXHIBIT L (HOWELL, 981.)

Maharajah Dhiraj Nanda Kumar Ji, at Calcutta, with compliments, written from Chinsurah, by Ballaki Das, with many obeisances. May God always grant him health, and I shall



be joyful. I myself am, by your favour, in health ; you have written a Persian letter, which has arrived ; by the reading of which I have been rendered joyful and contented. You have written that till the Governor shall come, you wish me to stay at Chinsurah. Accounts are received that the Governor will shortly arrive. I have, according to your desire, remained here. The Governor arriving, as business will quickly be done, you will do ; I have hopes in you.

You will hear other circumstances where you are ; I am unjustly oppressed ; you are the master. What else shall I write ? You have written about Dharam Chand ; therefore he and I acquittal have settled, which you know ; besides this, nothing respecting state is unknown to you ; accordingly you have told, and what you say, I pay great attention. The Company's money being received, out of it rupis two thousand, out of that self\* will give. I am not disobedient to your orders. At this time from the side of expense much trouble is ; therefore Rs. 500 you bestow upon me ; then I will give it with the rest. Business quickly will be done there first will give. Brother Padma Mohan is going ; you will be acquainted with other circumstances by him ; you are a master of everything. At this time you have considered everything, and who, except yourself, will do it ? What other representation shall I write ? There is no more.

In the year 1826. In Jeth the 26th Tuesday (6th June 1769.)

(Signature) BALLAKI DAS.

"You are my master ; it is necessary you should make inquiries about me at this time. The circumstance above written, you will make yourself acquainted with."

This letter shows that Ballaki regarded the Maharajah with great respect and looked up to him as his patron. It shows, too, his poverty, and how impossible it thus was that he could pay off the bond unless he got paid by the Company. The letter is also evidence that Ballaki understood Persian, and, indeed, it is almost impossible that he could have carried on his business as army pay-master, &c., without a colloquial knowledge of Persian. It would seem from some remarks on the trial, that the Judges thought there was greater difference between Persian and Hindustani (Moors) than there really is. The reference in the letter to the coming of the Governor, must relate to the expected return of Verelst from Murshidabad. We know from a letter in Verelst's "View" (p. 97,) that he

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\*Mr. Elliot explained that Mr. Farrer insisted on his translating the document literally, and that he therefore put "self" here, instead of *yourself*.

## *The Trial of Maharaja Nanda Kumar. 133*

had gone up on 6th April 1769 to the city, as Murshidabad was then called, to confer with Mahomed Raza Khan about the revenue collections. From another letter written by Verelst on the previous day, and therefore just before setting out, it would seem that he intended to hold the *Punya* at Murshidabad (p. 120).

I presume that the plan between Nanda Kumar and Ballaki was, that the latter should come to Calcutta, and try to get his money as soon as Verelst returned. I do not know whether it was before or after this that Ballaki did, apparently, see Verelst and present him a petition, which, however, did not bring him any satisfaction (Bolts, App. H, 579.)

Ballaki came to Calcutta in the beginning of the next month, but so ill that he soon died. Kista Jiban gives us an account of his last days. "He arrived the first day of Ashar, six or seven years ago. He was very sick. Maharajah came to his house to see him about three or four days after his arrival. Ballaki's wife and daughter, Padma Mohan Das and many other people, and I likewise, was there. Ballaki Das said to Maharajah, here is my wife and daughter and Padma Mohan Das ; I recommend them to your care, and I wish you to behave to them, as you have behaved to me. Padma Mohan Das has the management of all my business of whatever nature, I recommend him to you." I think that it will be admitted that if Nanda Kumar, after receiving this trust, robbed the widow and her daughter by forging a bond and charging Rs. 60,000 for darbar expenses when in fact nothing was paid, he committed a very base and cruel fraud. Impey did refer to this as making the forgery improbable, but I do not think that he gave sufficient weight to it. The fraud had the effect of depriving the family of about a lakh and thirty thousand rupis, and left them apparently with only sixty thousand rupis to divide among them. If it was a fraud, it was quite as horrid and diabolical as Mohan Prasad's prosecution was, supposing that he knew of the *kararnama*. It increases the improbability when we find Syed Gholam Husein (Stephen, 1,264) allowing that Nanda Kumar was a faithful friend. It may be remembered too that Hastings, in his minute of 28th July 1772, singled out the quality of fidelity, (in this case it was of Nanda Kumar to his master Mir Jafar,) as a praiseworthy characteristic of Nanda Kumar.\*

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\* Hastings' remarks on this occasion are a curious instance of candour struggling with officialism "If we may be allowed," he says, "to speak favourably of any measures which opposed the views of our own Government, and aimed at the support of an adverse interest, surely his (Nanda Kumar's) conduct was not only not culpable but even praiseworthy."

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In June 1769, and only a few days after his arrival in Calcutta, Ballaki had made his will (955.) In it he desired that after the money due to him by the Company was received, his debts should be paid, agreeably to accounts, and then the remainder be divided into sixteen parts, of which nine were to be given for religious purposes. The other seven annas were to be distributed as follows: four annas to his widow, half an anna to each of his nephews, Ganga Vishnu, and Hingu Lal, a quarter anna to each of his three daughters, and the one and a quarter anna remaining to his brother Sham Das. The mode of division resembles that of the Mahomedan law, and suggests that the will had been drawn up under the influence of Mahomedan ideas. It has often been said that the Hindus got the notion of a will from the English, but it is more likely that they got it from the Mahomedans. The latter have always had the institution as part of their law, though the legacies can only affect one-third of the estate.

The will recites that the testator, at the request of his wife, made the two nephews his trustees. But the management of all the business, of debts, and dues, books and papers, was left to Padma Mohan.

Sir James Stephen can hardly have read the will with attention, for he says that Ballaki left Padma Mohan a quarter of his property. This would have been singular, for Padma Mohan was not related to Ballaki, and the latter had, as we see, a widow and three children. What was left to Padma Mohan was ten per cent. on the Company's money, and 25 per cent. on the other outstandings. The legacy of ten per cent. is very important, for it shows that if Padma Mohan fraudulently allowed Nanda Kumar to retain eight of the Company's bonds, he injured himself very considerably. The value of the Company's bonds retained by Nanda Kumar was Rs. 1,43,435, so that Padma Mohan's commission would have been Rs. 14,343-8. The sum which, according to Mohan Prasad, was unjustly appropriated by Nanda Kumar, was Rs. 129,630-7, being Rs. 60,000 as darbar expenses, and Rs. 69,630-7 on account of the forged bond. According, however, to the account settled between Padma Mohan and Mohan Prasad on the one side, and Nanda Kumar on the other (exhibit M,) the amount of the bond and the darbar expenses was Rs. 126,320-7. If we take the figures 129,630-7, and they are those which Padma Mohan made Kista Jiban enter in the books, Padma Mohan's loss on the fraud was Rs. 12,963. It is difficult to believe that it could have been to Padma Mohan's interest to join Nanda Kumar in committing a fraud which directly deprived him of about Rs. 13,000. It cannot be believed that the item of darbar expenses was wholly unjust. Ballaki anticipated in his power of attorney that such charges would have to be paid, and I feel quite sure that the men who had so

long kept Ballaki out of his money, that is, Verelst and the others, would not part with over two lakhs of rupis without a considerable douccur. Let us suppose that one lakh out of the whole charge of Rs. 129,620 was fraudulently charged, still Padma Mohan could hardly have expected to get even half of the plunder. Nanda Kumar would get the lion's share, and there would be many other confederates to be satisfied. For example, there would be the writer of the forged bond, the witnesses, etc. \* Padma Mohan, therefore, threw away a certainty of Rs. 10,000 in order to get at most Rs. 30 or 40,000, and committed a most cruel fraud into the bargain. I cannot believe this : for apart from the great risk of detection, it is almost incredible that one whom Ballaki loved as a son, who, like Abraham's steward, was the eldest servant of his master's house, and ruled over all that he had, would commit such a fraud against the widow and children. And yet this is what we must believe, if we hold the bond to have been a forgery. Padma Mohan must have been a party to the fraud, for he accepted it and he made Kista Jiban make entries in the books in accordance with it. Of course, there is the alternative that Padma Mohan may have been deceived. But this is not probable, and was not the view taken by Mohan Prasad. He spoke of Nanda Kumar's saying that he and Padma Mohan had prepared three papers together, and he said that Padma Mohan always put him off whenever he referred to the matter of the bonds. According to Mohan Prasad he told Padma Mohan very early in the day that the bond was a forgery, and it is not likely that Padma Mohan would remain deceived after this, especially when, if he had been deceived, he himself had been robbed of about Rs. 13,000.

Sir J. Stephen admits that Mohan Prasad's evidence reflects strongly on Padma Mohan, and the Chief Justice told the jury that there was great reason to suspect that Padma Mohan was privy to the fraud, if any fraud had been, and Captain Price in his account of the trial takes the same view. Thus, then, we have another improbability added. We have the improbability that Nanda Kumar would cheat his friend's family, and we have the improbability that Padma Mohan would cheat them. The Chief Justice said nothing about the latter improbability in his charge ; he was more concerned to show the jury the improbability of Mohan Prasad's bringing a false charge. He twice referred to this, and in exaggerated and inflammatory language. Thus he first told the jury that if Mohan Prasad

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\* There was also Ganga Vishnu to be satisfied. He was not incapable then, and was present at the negotiations. Padma Mohan could hardly have committed the fraud unless Ganga Vishnu had also been in the conspiracy. It will be seen hereafter that the bonds stood in his name, and that Nanda Kumar gave the receipt (Ex.F.) to him.

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knew of the kararnama, the prosecution was most horrid and diabolical, and that Mohan Prasad was guilty of a crime more horrid than murder. Further on he told the jury that if the defence was true, it fixed an indelible mark of infamy on the prosecutor. Surely this was unfair to the prisoner, especially as Sir E. Impey went on to advise the jury to rely on their private knowledge of Mohan Prasad, that is, I suppose, on the gossip of Calcutta, such as that picked up by Captain Price for instance, and so to determine if it was probable that Mohan Prasad would, through malice, or any other corrupt motive, accuse an innocent person of a capital crime. This was not the only place in the charge where the Chief Justice encouraged the jury to rely on matters not in evidence. Thus he told them that Kamaladdin's evidence was supported by Khwaja Petruse, "whose character you all know."

Sir J. Stephen says that there is not a word in the summing up of which he should have been ashamed, if he had said it himself, and so I suppose he endorses all these appeals to private knowledge which seem to me so extraordinary. He also says that all his study of the case has not suggested to him a single observation in Nanda Kumar's favour which is not noticed by Impey. Did the improbability of Padma Mohan's robbing his master's family not occur to Sir J. Stephen, and does the Chief Justice notice this? Besides, Impey's declamatory and prejudicial remark about the defence, if true, fixing an indelible mark of infamy on Mohan Prasad was untrue.\* That part of it which referred to his knowledge of the kararnama might do so, though even there, there is room for the supposition, and it is a supposition argued for by Sir J. Stephen himself, that the kararnama was a forgery by Padma Mohan. But why should the defence, namely, that the bond was genuine, fix an indelible mark of infamy on Mohan Prasad? The witnesses to the bond did not say that Mohan Prasad saw the execution of the bond, and so if Nanda Kumar had been acquitted, Mohan Prasad could still have said that he, in good faith, believed the bond to be a forgery. Moreover the acquittal would not have necessarily carried with it the conclusion that the bond was true, though the conviction required that it should be proved false. It was enough for an acquittal that the forgery had not been proved.

The will was made on June 12th, 1769, corresponding apparently to 1st Asarh 1176 B. S., and Ballaki died a

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\* To me it seems that Charles Fox' remarks (Stephen I, 159) on this part of the charge are quite justified, and that Sir J. Stephen, in calling them shamefully unjust, has only added another volley of abuse to that which he has discharged on every one who does not admire his ugly idol—Sir E. Impey.

few days afterwards. In the report of the trial Kista Jiban is made to say that he died in Aswin, but this must be a misprint, for probate of the will was granted on 8th September 1769, which corresponds to 25th Bhadra. Mohan Prasad's evidence also shows that the death was in Asarh; the date of the death is given as 11th Asarh, which corresponds to Friday, 23rd June 1769. About five months afterwards, and probably in December 1769, Padma Mohan, Ganga Vishnu and Nanda Kumar went to Belvedere to get the Company's bonds. Probably there had been delay owing to the necessity for getting probate, and I suspect, too, that Mr. Miguel Van Colster had only recently arrived with the Court's letter. Probate was, as we have seen, granted on 8th September. It had been given to Ganga Vishnu, one of the trustees and Ballaki's nephew.

Kista Jiban was asked (1025) if he knew anything about the money being recovered by means of Nanda Kumar, and he said "Padma Mohan used always to attend at Mr. Verelst's with Maharajah Nanda Kumar; when the Governor was going to Europe, he was at Belvedere; Padma Mohan went with Maharajah Nanda Kumar to wait upon him, and occasioned the Company's bonds to be paid to Ganga Vishnu." Kista Jiban was not present at Belvedere, but he saw Ganga Vishnu and Padma Mohan start and was told by them that they were going to Belvedere and that the Maharajah had called them to go along with him. "The payment of the money had been daily expected; they went to get the Company's bonds; Padma Mohan Das and Ganga Vishnu said the Governor was going in a few days, and they certainly should get the Company's bonds. Upon their return, they brought the bonds, and carried them to the widow of Ballaki Das; a few days after the Governor went away." These remarks enable us to fix with sufficient accuracy the time when the bonds were paid, for we know from Verelst's work (appendix, p. 120) that he delivered his last minute on 16th December 1769, and that he resigned the Government on the 24th idem.

The bonds having been brought to Ballaki's widow she desired that they should be taken to Maharajah Nanda Kumar, because she said that they had been obtained by his means. "I was present," says Kista Jiban (1025) "I heard her with my own ears: she said he had been very generous to her and had shown great attention; she added having first settled with him, she would afterwards settle the other accounts of the house." Now I ask, if Ballaki only owed Rs. 10,000 to Nanda Kumar, as Mohan Prasad says, what occasion was there for the widow to send bonds to the value of about two lakhs of rupis in order to settle the account? Kista Jiban says that an account was made up in the widow's presence;

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Padma Mohan delivered it to Ganga Vishnu. It was written out by the witness and in the widow's presence. One Dharam Chand (see Ex. M) desired the widow to make herself mistress of the business of the accounts in question. No doubt this is the Dharam Chand referred to in Ballaki's letter of 26th Jeth, and also in Ex. M, to be mentioned hereafter. It was proved that the widow was at Benares and therefore beyond the jurisdiction of the Court, and upon this Mr. Farrer proposed to give parole evidence of the contents of the account. This was objected to by Lemaistre and the Court concurred with him, but yet allowed the evidence to be given in favour of the prisoner. I do not find, however, that Impey refers to the evidence in his summing up. It may be that the defence was not entitled to give parole evidence of the contents of the account, but I imagine that this could not prevent Kista Jiban's being examined as to what took place on the occasion. After all, the account was a mere *fard*, or list of debts.

Lemaistre objected that no evidence had been given of any attempt to procure the attendance of the evidence, or to get the original papers from her. But it was clear that she was a *pardanishin*, and it was also proved that she was residing at Benares, beyond the jurisdiction of the Supreme Court, or even of the Company's Court.

I now come to a rather thorny part of the subject, and it is necessary to proceed with great care in order to avoid mistakes.

The point is the delivery of the bonds to Nanda Kumar, and the difficulty arises from the fact that we have statements of three witnesses, Mohan Prasad, Kista Jiban and Chaitanya Nath, and that no one of them was fully examined. If we could have had Ganga Vishnu's evidence, everything might have been cleared up. Perhaps the best course will be for me to begin by quoting Sir James Stephen's account of the affair.

He tells us, (I, 109) that "probate of his (Ballaki's) will was granted to Ganga Vishnu, as executor, in the Mayor's Court at Calcutta, on the 8th September 1769. A considerable part of his property consisted of bonds of the East India Company, and about five months after his death (*i. e.*, near the end of 1769) Nanda Kumar, Ganga Vishnu and Padma Mohan Das went to Belvedere, at Alipore, close to Calcutta, to get the bonds to which Ballaki Das had been entitled. They obtained them and took them to the widow, who said that Nanda Kumar had been the means of obtaining them for her and had been very generous to her, that she would settle accounts with him first and afterwards with the other creditors of her husband. Padma Mohan Das gave her an account or statement, showing that after the payment of all the creditors, including Nanda Kumar,

a balance of 60,000 rupis would be due to her, and he mentioned on the same evening to Mohan Prasad the receipt of the bonds. The day afterwards Mohan Prasad saw Nanda Kumar, who told him that the Companys' bonds were received, and there would be some "darbar expenses" on them.

There are several errors in this account. In the first place I doubt if probate was granted on 8th September 1769. The will was proved on that day, but apparently the actual grant was made some days later, for the words are "on the 8th September *list*." The executor undertook to render a true and just account on or before 24th October 1770, and as it is probable that a year was granted to him for this purpose, it is likely that the grant was made on 24th October 1769. Unfortunately, the date of the grant is not given in the heading to the document. Sir James Stephen's mistake, however, is not an important one. The next statement, *i. e.*, that a considerable part of Ballaki's property was in E. I. Company's bonds, is of course a mistake, and this has been already pointed out. The bonds were only the means of payment and they were drawn for small sums, as Price tells us, to facilitate their negotiation.\* Then we are told that Nanda Kumar went to Belvedere with Ganga Vishnu and Padma Mohan. It is very likely that he did so, but we have no evidence for it. All we know is that Ganga Vishnu and Padma Mohan set off for Belvedere, saying that the Maharajah had sent for them, and that they came back with the bonds. The statement "*they* took them to the widow" is wrong, so far as it relates to Nanda Kumar.

I confess I cannot be sure of what was the order of things after this, but if, as Sir James Stephen's narrative seems to imply, and as Kista Jiban's evidence, (1025.) would indicate, Padma Mohan drew up an account before going to Nanda Kumar with the bonds, and showed it to the widow, there arises a strong presumption in favour of the bond, Exhibit A; for that account mentioned the sums due to Nanda Kumar and showed a balance due to the estate of Rs. 60,000. The bond was not referred to in it, but the Maharajah's account was mentioned in it. It would seem to follow, therefore, that Ganga Vishnu and Padma Mohan had recognized the existence of the jewels-bond on the very day that they got the bonds from the Company, and that they had spontaneously allowed for it in making up their accounts. Mohan Prasad however says nothing about this settlement. His version is that Ganga Vishnu and Padma Mohan took the bonds to the Maharajah, and he does

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\* This mistake illustrates the necessity of having facts  *dehors*  the record in order to understand the trial. It would be impossible to gather from the report of the trial that Ballaki's money was not in bonds.



not refer to their being first taken to the widow. It is, however, clear from his deposition that there had been some talk about the large claim of the Raja, for he tells us that Padma Mohan told him on the evening that the bonds had been carried to the Maharajah. "*I then showed Ganga Vishnu the power of attorney granted to me, and which I had before shown to him in order to prove to him that Rs. 10,000 only were due to Maharajah Nanda Kumar; and the day afterwards I went to the house of Maharajah Nanda Kumar.*" Four or five days afterwards he again went to Nanda Kumar, who told him that he and Padma Mohan had made out three papers. Finally, he, Ganga Vishnu, and Padma Mohan went to the Maharajah 14 or 15 days afterwards and received the bonds. "It was night time, the lamps were burning, and the Maharajah was sitting above stairs; we sat down by him, and the Maharajah called for his escritoire and opened it, and took out all the papers that were contained in it, and spread them before him; he cancelled (by tearing the top) a Nagari bond for Rs. 10,000, he also produced the patta\* of the house, and gave the cancelled bond and the patta into the hands of Ganga Vishnu;" he likewise tore the heads of those Persian papers, and said to Ganga Vishnu, "Do you take these" . . . . Then "Maharajah Nanda Kumar offered them to Ganga Vishnu who said, "Give them to Padma Mohan Das." Maharajah then looked at me sideways angrily and turning to Padma Mohan Das, said, "Do you take the papers" Padma Mohan Das took them, he and Maharajah kept counting by their memories some sums of money on their fingers, but wrote nothing down. Maharajah said, "I will take eight bonds"; having separated the other seven, he put them into the hands of Padma Mohan Das; there were originally 19 bonds; the Governor and Council took two, on account of commission due to one Michael; the other seventeen were given to Maharajah. When he gave the seven bonds to Padma Mohan Das, he said, "You have before taken two;" he answered, "I have." Maharajah said to Padma Mohan Das, indorse the eight bonds I have taken. Padma Mohan Das answered, "I will get them indorsed by Kista Jiban Das, the goinastah of Ballaki Das." Maharajah put the eight bonds into the hands of Chaitanya Nath Patdar. I, Padma Mohan Das, Ganga Vishnu, and Chaitanya Nath, (into whose hands the bonds were put) went out together and sat down in my Baithak-khana, (sitting room) Padma Mohan Das sent a man to call Kista Jiban Das; Kista Jiban arriving indorsed

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\* The bond was a mortgage bond, and the lease of the house seems to have been deposited with Nanda Kumar as security (See Ex. M. post.) The bond was, I presume, the one drawn up by Mohan Prasad's brother.

the eight bonds, and Padma Mohan Das gave them to Chaitanya Nath, who carried them away."

The witness was then asked if he knew anything of the receipt, Ex. F. He answered that he had been confined in the Court of Kachahri and had not seen the receipt given, but that he afterwards got a copy of it from the Mayor's Court.

This account of the delivery of the bonds and of the subsequent indorsement is not so full as that given on a later day of the trial by Chaitanya Nath, and which I shall quote further on. It seems to me that Mohan Prasad's object was to make Padma Mohan as prominent as possible, and to keep Ganga Vishnu as much in the background as he could. It was probably for this reason that he only spoke of Kista Jiban as indorsing the bonds, though it is clear that they must have stood in the name of the executor, and that Ganga Vishnu must have signed the indorsements. Both witnesses, however, agreed that the settlement was made at night, and that the indorsing took place at Mohan Prasad's house. Both agreed, too, that Kista Jiban was present on the occasion and that he wrote out the indorsements, but Chaitanya Nath added that Ganga Vishnu signed them. Though Kista Jiban was examined so many times, he was unfortunately never asked about this matter or about the receipt Ex. F. As in the case of the showing of the *karainama* to Mohan Prasad, he was not asked about the matter and so did not tell. But it appears to me that when the Judges saw that Mohan Prasad and Chaitanya Nath gave somewhat different accounts of the affair, they should have elucidated the matter by examining Kista Jiban. It will be remembered that he was not, in the first instance, a witness for the defence.

The above account of Mohan Prasad's evidence shows that the interval between the receipt of the bonds from Government and the delivery of the bond Ex. A. to Padma Mohan was about three weeks. In this time Mohan Prasad paid three visits to Nanda Kumar, 1st, on the day after the bonds were carried from Belvedere, 2nd, 4 or 5 days afterwards, 3rd, 14 or 15 days after that.

The point to which I wish to call attention is, that before even the first of these visits Mohan Prasad had twice shown his power of attorney to Ganga Vishnu, the object on one of these occasions at least being to prove to him that only Rs. 10,000 were due to Nanda Kumar. I do not see how the power could prove this, for it said that the list was written by guess, and that whatever other debits and credits appeared in the books were genuine. For example; the power said nothing about the Rs. 600 which, according to Kamal and Mohan Prasad, (940 and 951) were due by Kamaladdin to Ballaki's

estate. Nor was the statement perhaps altogether consistent with Mohan Prasad's admission (943,) that there were debits and credits between Nanda Kumar and Ballaki on Ballaki's books *to a great amount*. He should have at least shown Ganga Vishnu these books and not merely the power. And here it may be remarked that these books were never made use of by the prosecution. They were brought into court on a notice from the defence, but Mr. Durham said that as they were in Nagari he could not point out the entries as to which he meant to have examined Mohan Prasad, and he therefore declined making any use of them ! It was in this light-hearted way that the prosecution and the Judges got rid of the accounts which had made Mr. Boughton Rouse and his native colleague chary of deciding the civil suit. The defendant's counsel were told they might use the books if they were able to do so, and this though the book keeper Kista Jiban, was the prosecutor's servant, and a witness for the prosecution ! I beg to ask Sir James Stephen if this was the proper conduct for Judges who at that time professed to be counsel for prisoners, and if they should not have taken care that the books were fully understood and explained to the jury before the prisoner was condemned ?

However, Mohan Prasad did, according to his account, show Ganga Vishnu that only Rs. 10,000 were due. When then Ganga Vishnu went to Nanda Kumar's house about nineteen days afterwards he was fully aware, according to Mohan Prasad's version that only Rs. 10,000 were due, and that the claim on the jewels-bond, &c., was false. Why then did he pay it ? Why did he not object on the night when Nanda Kumar appropriated eight bonds ? Why again did he indorse on the bonds on the following morning ? It is true that Mohan Prasad does not say that this was on the following morning, but Chaitanya Nath said so, and he was not contradicted. At any rate, the indorsing took place in Mohan Prasad's house, and in the absence of Nanda Kumar. Ganga Vishnu was then surrounded by his friends and servants and not under restraint by Nanda Kumar. Why then did he endorse the eight bonds and make them over to Chaitanya Nath ? He had got the jewels-bond on the previous night, and both he and Mohan Prasad had an opportunity of seeing it before the indorsement of the eight bonds. Mohan Prasad tells us that he suspected forgery on the occasion of his second visit to the Maharajah, that is, a fortnight before Ganga Vishnu indorsed the bonds. And he became sure of the forgery when he saw that it was a jewels-bond, &c. He had also told Ganga Vishnu three weeks before the indorsing that Ballaki owed Nanda Kumar Rs. 10,000 only.

It is idle to say that Ganga Vishnu was a fool and did whatever Padma Mohan told him. The very fact that Mohan

Prasad showed him the power of attorney proves that he did not consider him incapable of attending to business. His illness had not begun then, and he transacted all the necessary business of an executor. He took out probate, and swore to administer the estate, he went to Belvedere and got the bonds, and he indorsed eight bonds to Nanda Kumar. Yet he made no complaint till about 2½ years afterwards, when he sued in the Court of Kachabri! If he was, in January 1770, too much under Padma Mohan's influence, why did not Mohan Prasad object? He was interested, according to his account, for he was to get five per cent. on what he collected for Ganga Vishnu, and he was present both at the settlement at Nanda Kumar's house and at the indorsing. He pretended that Padma Mohan and Nanda Kumar merely counted on their fingers and wrote nothing down. If there is any truth in this story it must refer to the first interview, described by Chaitanya Nath, (965) when he says that Mohan Prasad, Ganga Vishnu, and Padma Mohan settled the account in conversation. Mohan Prasad ignores the second settlement, when according to Chaitanya Nath, Mohan Prasad and Padma Mohan came and signed the account. (He does not mention their names in this sentence, but he had said immediately before that the signature on Ex. M. were made in his presence).

It seems to me impossible to account for the act of Ganga Vishnu and Mohan Prasad in 1770, except on the supposition that the jewels-bond was genuine and that they knew it to be so.

No doubt the Michael of Mohan Prasad's deposition, (915) is a misprint for Miguel, and the person meant is Mr. Miguel Van Colster who was Ballaki's agent, and is referred to in the Directors' letters above quoted. It is probable that he returned to Calcutta with the Court's letter of 17th March 1769, and that it was this missive which made Verelst consent to pay the money. If he left England in the latter half of March, he would probably arrive in Calcutta about October. The Judges of the Supreme Court, and the three Councillors left in two ships in the beginning of April 1774, and arrived on the 19th October. The commission referred to might be partly Colster's remuneration, and partly the £600 which the Court had advanced to him in England, and for which Colster gave bills on Ballaki, which the Court sent out in order that they might be charged against Ballaki's account.

The bonds must have been drawn out in the name of Ganga Vishnu who was the only executor who had taken out probate, and we may feel sure that Verelst would not pay the money to anybody else, and that he would take vouchers. Doubtless he reported the matter to the Directors, and the report and the

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vouchers will probably be found some day among the archives.\* The following full account of the indorsing of the bonds was given by Chaitanya Nath, the cashier of Nanda Kumar, (985, 986.)

*Qu.*—What became of them, (the bonds) ?

*Ans.*—Padma Mohan Das gave eight bonds to Ganga Vishnu, and Ganga Vishnu gave them to Maharajah.

*Court.*—Tell what passed on the occasion.

*Ans.*—Upon Ganga Vishnu's giving the bonds to Maharajah, Maharajah said, you give me these bonds in payment. Maharajah told Ganga Vishnu to indorse the bonds, and further Maharajah Nanda Kumar said to Ganga Vishnu, are you satisfied with this account? Upon which Ganga Vishnu replied, if any body should call you to an account about this account, I will say, Maharajah has nothing to do with it. Then Ganga Vishnu took an oath to be answerable to his father, brother, and mother, or any other person, if they should inquire about the account; upon which eight bonds were delivered to Maharajah Nanda Kumar, and he kept them; Ganga Vishnu said it was late, he would indorse the bonds in the morning; after they were gone, Maharajah Nanda Kumar desired me to come to him early in the morning, and take the bonds to Ganga Vishnu to get them indorsed. Next morning I went to Maharajah Nanda Kumar's and took the bonds with me to Mohan Prasad's house, where I saw Ganga Vishnu, Padma Mohan Das, and Mohan Prasad; I said to them, indorse the bonds; on which Ganga Vishnu sent for Kista Jiban Das; when he came an indorsement was wrote, written by Kista Jiban Das, and Ganga Vishnu signed it, and delivered them to me; I then took them away, and delivered them to Maharajah Nanda Kumar."

The next thing, presumably, was for Nanda Kumar to give a receipt for the money. This he did by the following document which was marked Ex. F in the case, and the seal on which was identified by Raja Naba Krishna and Sadaruddin Munshi (959) as being Nanda Kumar's. It is noticeable that the receipt was not signed, only sealed, and that Naba Krishna said this might be enough in the case of a receipt. But if enough in the case of a receipt which executors would have to file in Court, might not a seal also be sufficient on Ballaki's bond?

### EXHIBIT F.

"Formerly the jewels belonging to me were deposited with

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\* The debt due to Ballaki Das is referred to in the Court of Directors' letter of April 10th, 1771, paras. 37 and 43. The necessity of paying it is given as one reason for reducing Mubarak-ad-Daula's allowance to 16 lakhs. (Bolts, III, App. A, 255.)

Seth Ballaki Das. In the Bengal year 1172, he gave me a bond as the value thereof, for the sum of Rs. 48,021, and a premium. I having delivered over the said bond to Ganga Vishnu, who is the nephew and manager of the business of the aforesaid Seth; he paid all together the sum of current Rupis 69,630, in bonds of the English Company, which is the amount of my demand, as principal, premium, and batta exchange.

Written on the 4th of Magh, in the Bengal year, 1176."

This paper enables us to know very nearly when the bonds were paid to Ganga Vishnu. The 4th Magh 1176 B. S. corresponds to 15th January 1770, and is the date laid in the charges as that of the uttering. It is also the date mentioned in the charges as that of forging the bond for the purpose of defrauding of Ballaki Das. though Lemaistre, J. or whoever drew the charges, might have known that poor Ballaki was dead six months before.

Sir James Stephen does not seem to be aware that 4th Magh 1176 corresponds to 15th January 1770, for he does not mention the fact, and he writes (I, 111) that the bond was delivered with the rest to Padma Mohan Das, who filed them all in the Mayor's Court, and that this was the publishing complained of. I am not sure what is meant by this. If the meaning be that the filing in the Mayor's Court was the publication, the statement is incorrect. The uttering was alleged to have taken place on 15th January 1770, and this was more than a year before the bond was filed in the Mayor's Court. I do not know where Sir James gets his authority for the statement that the bond was filed by Padma Mohan. The will was proved on 8th September 1769, and the order passed was, that the executor (Ganga Vishnu, and not Padma Mohan,) should file accounts on or before 24th October 1770. The papers sent for from the Mayor's Court, (1030) show that accounts had not been filed up to 13th November 1770. The executors were then cited to produce them, and to deposit the balance due to the estate in the Company's cash. The next order was of 1st October 1771, and states that it had been suggested to the Court that Padma Mohan had conveyed away several papers belonging to the estate. He was, therefore, ordered to deposit all papers and vouchers. This is the first mention of Padma Mohan, and it appears from the concluding part of the entry that Padma Mohan had appeared on that day, and that either in punishment of his contumacy, or in accordance with the usual arbitrary nature of proceedings in the Mayor's Court, he had been put under arrest. He was, however, allowed to attend to his own affairs under the custody of Sheriff's peons. We learn (1024) that Farrer produced an office copy of an executor's account delivered in by Padma Mohan on 1st October 1771. (The date 1774 is clearly a misprint).

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The next entry is a petition by a Gosain\* who was a legatee under the will, representing that Padma Mohan had lately died, and that Ganga Vishnu was incapable of taking charge of the affairs of Ballaki Das.

This petition is dated 14th January 1772, and harmonises with a statement of Kista Jiban, that Padma Mohan died 3 years and 7 months before June 1775. The 14th January was the first time that the registrar was ordered to take charge of the books and papers of Ballaki Das. It is perhaps worth while noticing here, as an instance of the curious way in which business was done in the Mayor's Court, that the Gosain's attorney and the registrar or rather register, was one and the same person, *viz.*, William Magee. The next two entries are dated 21st and 28th January 1773, but I suspect that this is a mistake for 1772, especially as the last entry has the words, the first of October last, which can only refer to 1771. We learn from these entries that the Court was still trying to get in the papers. There is also a curious account about the papers having been deposited in a room in Padma Mohan's house,—(which confirms the idea that he never placed any papers in Court) and that the room had been secured by two locks, one given to Bal Govind, and another to Padma Mohan's people. Bal Govind appeared in Court on 28th January 1772 (?), and declared that one day, when he went up to the said room, he found the door had been opened, and that his lock, together with a knot he had tied upon it, had been opened, and on going into the room, he found that the greatest part of the papers were taken away, together with some other things of value. He threatened to complain, and then Keval Ram Panda requested him to keep quiet, and to go and speak to the widow. I presume this was Padma Mohan's widow, for Ballaki's widow had gone long ago to Benares. Soon after Mohan Prasad came in, when he and the said Keval Ram Panda went near the widow, and spoke her something which he, this deponent, could not hear, as he stood at some distance from them; and soon after Mohan Prasad, and the said Keval Ram Panda came to the place where he was, and begged him not to expose her, and that she would deliver up all such papers as remained

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\* Gosain (go-swami, lord of cattle or perhaps lord of one's passions (Wilson) a faqir or jogi, a religious mendicant). Ballaki left by his will (967) one sixteenth of his property to the disciples of Gosainji. This may be the Gosain referred to or it may be Birju Palji to whom one thirty-second was left. Kista Jiban said (1024) that the Gosain's name was Birjya Ibisher? Ji and Mr. Farrer in his application of January 25th, 1775, spoke of him as Bijra Seer (Sri?) Gosain, and as a legatee named in the will. It would appear from Kista Jiban's account (1023) that it was Padma Mohan and Mohan Prasad's quarrelling, and their failure to pay the Gosain his legacy which led the latter to move the Mayor's Court.

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in her possession, and accordingly the said Keval Ram Panda went and dug the ground in the compound, and got some books and papers out of it, and delivered the same to this deponent, which he put into a chest and locked up.

Upon this the Court ordered that notifications should be issued calling upon persons to apply for letter of administration to the estate of Padma Mohan who had lately died intestate. This also shows that the real date is January 1772. It was further notified that if nobody applied within 14 days for letters, the Court would appoint some one to take charge of the estate. This was the way in which Padma Mohan's papers came into the possession of the Mayor's Court.

The next entry is dated July 2nd, 1771, but must be 1772, and is to the effect that Padma Mohan's papers should be separated from Ballaki's. There is a note by the reporter that this order was not carried out till 27th April 1773, but it is clear from 1034. that here again is a misprint, or a mistake of Elliot, for the true date is 27th April 1775.

The record of Bal Govind's complaint is important on two grounds. First, it shows that the papers of Ballaki and Padma Mohan had been tampered with, a fact which might account for the disappearance of the famous *kararnama*. Further it shows that Bal Govind, who, I imagine, was one of the legatees under the will and very possibly was the Gosain's disciple, might have been an important witness in the forgery trial. And we find (1039) that he was a witness, and that his name was on the back of the indictment, so that I presume he was one of the witnesses who were examined on the 6th May, and who convinced Lemaistre and Hyde that the charge was true. The prosecution, however, did not choose to call him, and Farrer said that he was well acquainted with, and could give reasons why the counsel for the prosecution had not called them, Ram Nath, and Bal Govind, and that he should immediately call them. Unfortunately, however, he does not seem to have examined Bal Govind. At least there is no record of his evidence.\*

The whole affair of the payment of the bond seems to have been conducted with great openness, and this, I think, goes to negative the idea that there was any fraud. Ganga Vishnu took the Company's bonds home, and it was only by the action of the widow that they came into Nanda Kumar's possession. After this, accounts were made up, and the bond, Exhibit A, was returned in the presence of several witnesses. It was not under cloud of night, but in the morning that

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\* Bal Govind is referred to in the report (1062). He is also mentioned by Mohan Prasad as one who had seen Ganga Vishnu a month or so before. It cannot therefore be said that Bal Govind was not accessible.



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Chaitanya Nath went, and had the Company's bonds indorsed over to his master. Nor was this done at Nanda Kumar's house, but at Mohan Prasad's and in the presence of Mohan Prasad, Ganga Vishnu, and Padma Mohan. Finally Nanda Kumar gave a formal receipt for the money, and in this the bond, and the circumstance of the jewels were mentioned, so that Nanda Kumar could never afterwards deny that he had received the money, or that he had got it on the strength of the jewels-bond. In fact every circumstance connected with the payment of the bond indicates that it was genuine. The very facts of the bond's being for the value of jewels and of its conditional character support the view that it was genuine. I may add that the forging of a bond, and that too for not a very large sum seems alien to Nanda Kumar's character. He was a restless, intriguing, and aspiring man, but it was power he wanted more than money, and he seems not to have had the nature, or the talents required for contriving a petty fraud. He was not a secret, solitary man, or as Hastings put it, "Nanda Kumar, among whose talents for intrigue that of secrecy is not the first."

When the bond was returned, it went immediately into the hands of persons who had an interest in finding it to be a forgery, and had every facility for doing so. Is it conceivable that if the seal of Ballaki had been forged, Mohan Prasad and others would not have found it out? Ballaki's seal must have been among his effects and there must have been many papers bearing his seal. Some people appear to imagine that as soon as the bond was returned, it was filed in the Mayor's Court, and that it remained there hidden and inaccessible till the advent of the Supreme Court.† But this is a complete mistake. The bond did not go into the Mayor's Court till years afterwards, and when it did go, it did not become unprocurable. It was not lost amid a bundle of old papers for

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\* According to the *Seir Matakerein* he died worth 52 lakhs of rupis in money besides as much more in goods. He was not then likely to forge for the sake of little more than half a lakh. Sir E. I. referred to this in his charge, but perhaps the jurymen who seem to have been of a humble rank in life, and whose foreman John Robinson, (a private friend of Hastings, according to Price) became bankrupt or died insolvent less than five years after the trial, were not likely to appreciate the argument. Sir J. S. says that the amount was over £7000, and this would be so if current rupis were reckoned at 2s. 2d. each—otherwise it would only be £6963 (at 2s. per rupi). I do not object to reckoning current rupis at 2s. 2d., but then what becomes of Sir J.'s calculation of Impey's salary? There he estimated sikkas as only Rs. 25. 2d. (Vide ante, note † page 101.) Possibly he has added in Impey's estimate of the darbar charges, which in Impey's charge are wrongly put at Rs. 6000 instead of Rs. 60,000, but of course they had nothing to do with the bond.

† Sir J. Kaye, C. R. Selections, II, 567.

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Mohan Prasad got a copy of it from the Mayor's Court and says he showed it to Manahar Mitra, in 1773, (two years ago) (1047.) If he could get a copy, he could certainly inspect the original. But the fact appears to be that Mohan Prasad never denied that the seal was Ballaki's. What he seems to have said or implied, was that Nanda Kumar had by collusion with Padma Mohan, or otherwise, got hold of Ballaki's seal and affixed it to a false bond. This seems implied by the question at 1045: Tell at what time you first suspected forgery of the bond *and that the seal of Ballaki Das was improperly made use of?* And as a matter of fact no attempt was made by the prosecution at the trial to prove that the seal was a forgery. All the burden was thrown on the defence of proving that the impression was genuine, and it was because Impey thought that the defence failed to show this, and because he ignorantly rejected Mir Asad Ali's evidence, that Nanda Kumar was hanged.

It seems to me very difficult to maintain that it was not necessary to prove that the seal was a counterfeit. The charges all refer to the bond's purporting to be sealed by Ballaki Das with the seal, or chhap of the said Ballaki Das. It is true that Impey said that the prisoner was not only indicted for forging the seal, and that there was no evidence of his having done so; but this refers to there being no evidence that Nanda Kumar made the seal or the impression with his own hands. Impey thought that there was strong evidence that the seal was a forgery, *viz.*, the proof that the receipt filed by Asad Ali was a forgery.

It seems clear at all events that the bond was not forged in 1770. The recency of the writing, and the fact that it purported to be witnessed by Silavat, who had been dead for three years, (955,) would have at once detected the forgery. If, as Sir Louis Jackson seems to think, a British Jury would be at once able to know if a Persian paper was recent, and would be justified in feeling their understandings insulted by its being offered to them as of old date, surely a number of natives could do so. Mohan Prasad may not have been able to read Persian, but he was of the same caste as Silavat, who was an agarwala, so that I presume Mohan Prasad was of up-country extraction. And here I cannot help congratulating my Bengali friends on what seems to be the fact, that Mohan Prasad was not a Bengali. Amichand has been proved not to belong to them, and now Mohan Prasad is eliminated! Mohan Prasad's story is that he suspected the forgery from the first, and it was necessary for him to say so in order that he might make it probable that he had not signed the Exhibit M. at Nanda Kumar's house, and that he had only signed it

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afterwards to please the widow. But I do not believe that he thought it a forgery then. This was an afterthought suggested by subsequent quarrels. The reasons, at least most of them, given by him for distrust are ridiculous. (1046.) He said that Silavat's name on it made him suspect, as Silavat had been dead four years. When he was asked what objection this was to Silavat's witnessing a bond in 1765, he said that a man might write a bond and antedate it. Still we see that there is no allusion to the writing's being recent. These remarks show what shifts he was put to in order to make out that he had from the first suspected the deed. The omission to say anything about the seals not being Ballaki's, or about the writing's being recent is all the more remarkable. It is worth notice that Mohan Prasad in this part of his evidence affected to speak of Kamiladdin as Mahomed Kamil,\* though it is abundantly evident from the conspiracy case, etc., that every body knew him, latterly at all events, as Kamiladdin. It is clear from the remarks of Mr. Weston, the foreman of the Jury and of Mr. Elliot, that there was nothing unusual in the provision of the bond about a premium. It would appear from the foreman's remark that such a stipulation would be common where it would be a long time before the money would be paid. It may be remembered that according to Hindu ideas, interest could never exceed the principal.

The above remarks seem to me to disprove the suggestion made by Impey that the bond might have been forged after the payment of the debt due to Ballaki. Impey made this suggestion to get rid of the difficulty about the bond's being conditional. He also said that it might have been done to give an air of probability to the transaction, though Mohan Prasad said that it was the conditional character of the bond that made him suspect it!

But where was the time for forging the bond after the payment? The bonds were delivered apparently in the latter part of December and the bond was produced on some day before January 15th, at least according to Mohan Prasad, who said the interval was not more than three weeks. Is it likely that in some three weeks, a bond could have been forged and published which would have the appearance of having been written five years previously? If the bond was not forged

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\* I wonder that it did not strike Sir E. I. or Sir J. S. that if Mahomed Kamil were Kamiladdin, it would have been easier for Nanda Kumar's witnesses to assert that Kamiladdin had really witnessed the deed. He could hardly have contradicted them successfully about an affair of ten years before, by proving an alibi, and they had the impression of his seal to support their story. As the theory is that Nanda Kumar's witnesses were all perjurers, they could have had no scruple in swearing that Kamiladdin was a witness.

after the money was paid, is it likely that it would be forged before? Could Nanda Kumar know that Ballaki's money would eventually be paid, and would he make an elaborate forgery on speculation? If Mr. Colster had not succeeded in obtaining justice for his client, the bond would have been useless, and it is evident that Ballaki had not much hope of success from Colster, for he wrote to employ Bolts and sent him a power of attorney. Bolts' letter to the Directors is dated December 6th, 1769, and I presume, therefore, that Ballaki must have written to him very shortly before his death.

If the fraud was contrived after Ballaki's money was paid, it was surely an awkward and dangerous one. If Nanda Kumar could retain Rs. 60,000 on the false allegation of darbar expenses, it was hardly worth while to make a bond for Rs. 70,000. It would have been just as easy, apparently, for him to assert that he had paid Rs. 129,000 for darbar expenses, as he gave no voucher for the charge. In this way he could have evaded suspicion and danger; for it is well known in Bengal that persons in power never give receipts for money illicitly taken. When Nanda Kumar charged Hastings with taking bribes, he never pretended that Hastings had given a receipt. Especially would the higher sum as darbar expenses have afforded an easy plan if, as the case almost requires in order to be believed at all, Padma Mohan and Ganga Vishnu were parties to the plot. What necessity was there for Nanda Kumar's allowing Mohan Prasad to be present or to know anything at all? It may be said that he was Ganga Vishnu's attorney then, but he produced no such power at the trial. His power from Ballaki lapsed with the death of the latter, and at all events, its continuance depended on the pleasure of Padma Mohan Das (*vide* will, 968).

Ganga Vishnu, I repeat, was not incapable of attending to business in 1770. His illness appears to have begun in 1773, for Mohan Prasad tells us that at the time of the trial he had been sick something above two years. He was not even quite helpless or bedridden then, for he came twice to the Court-house one or two months before the trial for forgery, and signed papers, (953.) In fact he did not become quite incapable until his services were no longer required by the prosecution, and the defence wanted to examine him as a witness! It does not appear that Mohan Prasad was his attorney in 1770. The power granted by Ballaki to Mohan Prasad had of course lapsed with Ballaki's death, and the power under which Mohan Prasad acted in the forgery case was only dated 6th May 1775, that is, the day on which the unhappy Nanda Kumar was committed by Lemaistre and Hyde, (943.) Previous to that there was a joint power to Mohan Prasad

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and Messrs. Hamilton and Lodge. These two gentlemen withdrew upon Nanda Kumar's being committed, (935.) There was also a Nagari power of attorney which had been drawn by Mr. Driver in favour of Mohan Prasad and one John Love. The English power was drawn to Mohan Prasad singly by Mr. Driver, and was dated 6th May 1775. Now, what was the meaning of this power drawn to three persons, two of whom were Englishmen, and why did they withdraw upon Nanda Kumar's being committed? It is very unfortunate, and in my opinion, suspicious, that we have no record of the commitment proceedings. One would like very much to see the record of proceedings which lasted from 9 A.M. to 10 P.M., and which left no doubt of Nanda Kumar's guilt remaining in the breasts of either Lemaistre or Hyde. (Stephen, I, 95.) I think that it will be admitted that after feeling in this way about the evidence, they were hardly the proper persons to preside at the trial!

I suppose that it was to execute the power of attorney of 6th May that Ganga Vishnu was brought to Court.

I can only offer suggestions about the power of attorney to Mohan Prasad, Hamilton and Lodge. It does not seem likely that the power was granted to these two English gentlemen for mercantile purposes. I think that it must have been granted for the purpose of the prosecution, and that this object having been gained by the commitment of the Maharaja, they immediately withdrew. Possibly they were too nearly connected with Hastings for it to be safe that their names should remain on the record. Hamilton may have been the Charles Hamilton who translated the Hedaya, and who was a protégé of Hastings, and Lodge may have been the civil servant who was Collector of Buzurg Umedpur in Bakarganj in 1786.

I shall be told that it is unfair to make suggestions of this nature, but I think that we are justified in presuming that there was something wrong, for why did not the Judges or Hastings publish the record of the commitment proceedings? Why were the proceedings in the conspiracy cases published, and not those in the forgery case? If Hastings had nothing to do with originating the prosecution, the preliminary proceedings would have been the best evidence in his favour. If these proceedings could have shown that the prosecution was *bonâ fide* instituted by Ganga Vishnu and Mohan Prasad, and that Hamilton, Lodge, and Love were in no way connected with Hastings, there could not have been a better defence for Hastings and the Judges than the publishing of the proceedings. If the power of attorney to Mohan Prasad jointly with the Englishmen was for the purpose of the criminal prosecution, this might help to explain Mohan Prasad's statement to Ram Nath, (1039,) that he could not desist from the prosecution as he had told a great many

English gentlemen of it. Another point worth noticing is that Nanda Kumar was not committed till about ten o'clock at night on Saturday, the 6th May. It is hardly likely that a power of attorney would be drawn up so late at night, and the next day was a *dies non*, being a Sunday. It seems probable, therefore, that either the power was drawn up before the commitment was made out, or that the power was antedated. It is probable that some special power of attorney was necessary to enable Mohan Prasad to prosecute. It should be remembered that Mohan Prasad had apparently no power in himself to prosecute. He was not aggrieved, at least not directly, and in none of the twenty counts was there any charge of defrauding him. This makes it all the more unlikely that he was a *bond fide* prosecutor. When he was examined on the *voir dire*, he said that he was to receive five per cent. on all money received, but when the power of attorney of 5th May was produced, it was found to contain no mention of such commission. I suppose that if it had, he would have been incompetent to give evidence and that this was why nothing was said about it in the power which Driver drew up. It was settled by the Court that Ganga Vishnu could not give evidence \* for the prosecution, as he had a great interest in the estate of Ballaki Das, (965,) and I suppose that by a parity of reasoning Mohan Prasad could not have been examined had it been proved that he was to get five per cent. on the collections. It can never be certainly known if Ganga Vishnu was a consenting party to the prosecution, but the anxiety of the defence to examine him, in spite of what the Court considered to be the strong interest he had in procuring a conviction, indicates that Nanda Kumar and his advisers were confident of his innocence and believed that Ganga Vishnu would be a friendly witness. I think it would have been very difficult for Ganga Vishnu to give evidence which would not have been in favour of the accused, for I cannot see how he could have got over his own acts in indorsing the Company's bonds over to Nanda Kumar, and in accepting the receipt F. and in not suing or complaining earlier. He had not the excuse of Mohan Prasad that he had no power in the business during the lifetime of Padma Mohan. for he was himself the trustee, and the executor of the will. As Kista Jiban said, (1023, "Ganga Vishnu is in reality master."

Captain Price, who was one of the Grand Jury who brought in a true bill against the Rajah, and who seems to have been present throughout the trial, tells us\* that Ganga Vishnu was

\* Readers of Fielding's "Amelia" may perhaps remember that Trent's father-in-law escaped conviction for forgery because the party aggrieved could not give evidence against him. Sir J. S. will perhaps allow me to quote Fielding, as he was, I believe, a duly qualified barrister.

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a well-wisher of Nanda Kumar and was said to have been hurried on against his will by Kista Jiban, Mohan Prasad and the legatees, to admit of the prosecution ! For all these reasons it was important, I think, that the defence should have had an opportunity of examining him. We are told that he was ill, and that a doctor deposed that he could not come to Court without risk of his life. But could not the trial have been postponed for a few days ? or could not the jury have adjourned to his house ? Apparently if they had even consented to go down stairs he might have been examined, for part of the difficulty consisted in getting him over the verandah. Williams proposed to hoist him over with ropes, which of course was enough to frighten an invalid. It is observable that Sir Elijah Impey, though he told the jury not to take any prejudice against the prisoner for not calling Ganga Vishnu, said nothing to them about the possible loss to the prisoner by his not being examined.

### THE ACCOUNTS.

I shall here endeavour to explain the accounts which were made out between Ballaki and his heirs on the one hand, and Nanda Kumar on the other. This is a point which was very slightly noticed by Sir Elijah Impey in his charge. All he said was—"There are two pieces of written evidence relied on by the prisoner ; one, the entry in the book from the *kararnama*, on account of the agreement of the sums ; and you will find that the sums said by Kista Jiban Das to be contained in the *kararnama*, viz,

Darbar expenses	...	...	Rs. 6000
Bond, batta and premium	...	...	„ 69,630-7

Do. amount to the sum of ... Rs. 75,630-7  
which is the sum in the entry.

"The other is the account delivered by Mohan Prasad and Padma Mohan Das, in which Padma Mohan Das had taken credit for this sum ; and the subsequent account likewise contains it. I do not think much can be drawn from this, for the sums had, as Mohan Prasad says, been paid, and therefore they certainly would take credit for them, to prevent their being charged with them ; this they would do, were the monies properly or improperly paid." To this Sir J. Stephen appends the note, "I have not encumbered my account of the trial with these papers for the reasons given by Impey." He takes no notice of Impey's mistake about the figures, and does not apprise his readers that there was no such total anywhere as Rs. 75,630-7, nor does he take any notice of the Nagari document, Exhibit M, of which a translation is in the report. (982-83.) Nor does he refer to a similar omission by Impey.

And yet this Exhibit M, was by far the most important document filed in the case, and it is impossible to decide on the question of Nanda Kumar's innocence without a careful study of it.

Elsewhere Sir J. Stephen gives a better reason for not inserting Exhibit M, namely, that several of the exhibits are to him unintelligible. I do not wonder at this, for Exhibit M is misprinted, and there are also mistranslations of the Nagari original, but this does not excuse Sir James Stephen for rashly taking up the case and dogmatising on it. I have given much time to the study of the accounts, and I think that I have succeeded in comprehending them.

We may describe the accounts as being five in number :—

1. The *kararnama*.
2. The entries in the books.
3. Exhibit M.
4. An account filed in the Mayor's Court by Padma Mohun.
5. Exhibit Q which was filed in the Mayor's Court after having been signed by Padma Mohan and Mohan Prasad.

The first three, however, were the only important papers, and unfortunately the chief of them, namely, the *kararnama*, could not be produced at the trial. We have only Kista Jiban's account of it, and the entries which he made in the books from it.

The *kararnama* was a paper written by Padma Mohan, and signed by Ballaki. It was an account stated between Ballaki and Nanda Kumar, and specified the jewels-bond, the *darbar* expenses, and some debts on account of tips\* that is notes of hand. In one place Kista Jiban calls the document a *canatama*. I doubt if this is a misprint for *kararnama*. *Kararnama* is a Persian word and not likely to be used in a Nagari document. Possibly the word was *kantunama*, an instalment bond, and this was translated by Elliot or Kista Jiban as *kararnama*. *Kisti-bandi* is the name we should have expected to find, at least if the transaction had been entirely between Bengalis. I gather from Kista Jiban's evidence that the document was in some way, a promissory note or instalment bond, for he calls it a *dastaviz*, and says that the words "the space of six months" were written on it. (1021 and 1061).

The *kararnama* is the document about which Kista Jiban is supposed to have broken down in cross-examination, a failure

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\* Bolts says in his glossary that the word *tiz* is particularly used in Bengal for notes given before-hand for money to be paid for services to be performed. They might, therefore, appropriately come into an account in which Ballaki may have agreed before-hand to give Nanda Kumar money for *darbar* expenses. Even therefore if Mohan Prasad spoke truly when he said that no such expenses were paid, these tips might not be forgeries.



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which by some was supposed to have had a good deal to do with Nanda Kumar's conviction. It is difficult to make out what Kista Jiban said on this occasion, for he was not fully examined, and he was evidently much confused. He was not even asked in what month or year Mohan Prasad saw the *karar-nama*! He was examined at an extraordinary hour, about one o'clock in the morning apparently, after the evidence had closed, and when, no doubt, the Judges and the jury were anxious to get free from their seven days' captivity.

Sir James Stephen says: "The paper itself was not produced at the trial. If Kista Jiban Das was to be believed, it was when he saw it under the control of Nanda Kumar, for he said that the Maharajah sent for it from his house; but another witness, Mohan Das, said (if his evidence refers to this document, as I think it does, though it is by no means clear) that he made a copy by Nanda Kumar's desire of the original paper, gave the original to Padma Mohan, and kept the copy himself, which copy appears to have been produced at the trial." I am not sure that the first part of this statement is correct. It seems possible that what Kista Jiban meant was that the Maharajah sent for the *karar-nama* to Mohan Prasad's house; and that in fact Mohan Prasad or Kista Jiban brought it to the Maharajah.

In the examination-in-chief Kista Jiban said that the Maharajah sent for the *karar-nama* to his own house. In cross-examination the question put to him was "who produced the *karar-nama*, Mohan Prasad or Maharajah?" The answer was: "Maharajah sent for it from his house." This is ambiguous, for we do not know what was the Urdu possessive pronoun used by the witness, but it is odd if the witness meant Nanda Kumar's house, for they were there at the time, unless, indeed, he meant Nanda Kumar's house in the country. However, the point is not important, for if Sir J. Stephen's interpretation be correct, there is no contradiction between Kista Jiban and Mohan Das. Mohan Das no doubt says that he delivered the original to Padma Mohan, but he does not say that Padma Mohan had it before, or that he brought it to Nanda Kumar's house. His evidence is consistent with the idea that the Rajah had the paper in his custody, and that he, at that interview, gave it to Padma Mohan after keeping a copy. It is not impossible that this witness, who lived at Cossimbazar near Murshidabad, may have brought the deed to the Rajah's from the house of the latter in that place, and that this may be what Kista Jiban referred to.

Mohan Das said he made his copy about six years before, and before the rains, but it is hopeless to try and fix the date. There is some apparently inextricable confusion in the report, for Mohan Das said he took a quarter of a *ghurri* to write the

copy, and offered to submit to a trial if they doubted him. But instead of giving him the copy of the kararnama to copy, they set him on Exhibit M, and then the report is that he was an hour and-a-half over it, (1054.) How he could take so long I do not understand.

As we have seen, Kista Jiban was not asked the date of the interview, and we are left to conjecture on the subject. The Chief Justice assumed in his charge that the interview took place before the payment of the bond, for afterwards it could be of no use. I do not follow this. Why should not Nanda Kumar have sent for Mohan Prasad after the civil suit was brought, and there was a talk of a reference to arbitration? In the same cross-examination Kista Jiban said that Padma Mohan had shown him the paper before Mohan Prasad took him to Nanda Kumar's house, and from his evidence (1022) we know that Padma Mohan showed him the paper about the end of 1771. I admit, however, that there is a confusion which I cannot explain, for Kista Jiban said before that he never saw the paper again after he had made the entry in the book from it. However, if the Chief Justice's view be correct, that the interview took place before the bond was paid, there does not seem to be any contradiction between Kista Jiban's evidence, and that of Mohan Das. The latter may refer to another day.

The kararnama must have been drawn up after the execution of the bond. Exhibit A, for it referred to it, and described its terms. I therefore do not understand the point of the jury's question, would not the kararnama have been given up on a bond to perform the contract? It looks as if the jury had begun to get lost! I gather from the notices proved by Mr Jarret, (1034.) that the kararnama was dated 9th Paush. Unfortunately the year is not given, but it may not improbably have been the 9th Paush 1825, (January 1769) the same month in which the power of attorney was executed, though that was on the 9th day after the middle of Paush.

This was a time when Ballaki was settling up his accounts, and the stipulation of six months may refer to the likelihood that Vee'lst would pay the Company's debt in that time. The notice proved by Mr. Jarret is also important, because its terms support the view taken by Sir James Stephen of Kista Jiban's evidence, and also the evidence of Mohan Das. The notice called upon Lachman Das, the brother of Padma Mohan, to produce a Nagari paper given to Padma Mohan by Maharajah Nanda Kumar, when Mohan Prasad, Ganga Vishnu and Padma Mohan were at his house, in Ballaki Das' own writing,\* dated about the 9th of Paush.

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\* From Kista Jiban's evidence it would appear that it was only partially written by Ballaki.

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According to Kista Jiban, the kararnama mentioned that a sum of money, the amount of which he did not recollect, was to be paid to the Governor and Mr. Pearson.(?) Unfortunately I do not know who Mr. Pearson was; it would be important to know, for it might enable us to fix the date of the kararnama. There was apparently a Mr. Pearson in Calcutta in 1768 who lost a young wife, for in the Bengal Obituary, (p. 69) there is the record of a Mrs. Sarah Pearson who died on 8th September 1768, aged 19. There is also (at p. 71) the record of the death of a Mr. Thomas Pearson in 1781 at the age of 42.\* The kararnama also mentioned Rs. 3,500† on account of tips, that is, notes of hand. There was also mention of a bond on account of jewels on which there was a premium of four annas in the rupi.

Kista Jiban went on to say, that after seeing the kararnama, he made the following entry in the books. "In the private account of Ballaki Das, the sum of Rs. 129,620-7 is the jama of the account of Maharajah Nanda Kumar Ji; the particulars of which are on the credit side of the account given on inspecting a dastawiz; the receipt is taken, and it is written on the credit, Maharajah Nanda Kumar's account with you." Kista Jiban explained that though the entry was made after Ballaki's death, the words "with you" were employed, as the books were Ballaki's, and it appeared that there were other similarly expressed entries in the books. It, therefore, does not appear what grounds the Chief Justice had for saying that the entry carried marks of suspicion with it.

On the credit side there was the following entry:—"The jama of Maharajah Rs. 69,630-7, the bond of which Ballaki wrote the particulars, 48,021 Rupis, a bond bearing date 7th August 1765, in English words, but Nagari characters, the date of the bond is the 7th Bhadra 1172, Bengal style, Rs. 12,005-4, the account of interest sawa has been settled; which sums cast up, make 60,020-14, 9,604-3; 16 per cent. on account of Sikka Rupis added to that, make 69,630-7; there is an end of the account." This account of the entries does not seem full, for it gives details only of Rs. 69,630, and not of Rs. 129,630.

Kista Jiban said he made the entry under the orders of Mohan Prasad, Ganga Vishnu and Padma Mohan, but he added that Mohan Prasad was not present, and that when he went to ask him, he told him to go to Padma Mohan, as he was the head man. He could not say if Mohan Prasad and Ganga Vishnu knew of the entry then, but they must have known of it when

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\* This may have been the Thomas Pearson who was Judge Advocate in June 1766, and took part in the trial of Cap. Stanforth. (Broome, p. 608) It really looks after all as if "Mr. Pearson" were a misprint for "Maharajah." (See end of first para. of C. E. 1061.)

†Qy? 35,000. (See 1061.)

the papers were filed in the Civil Court. (Apparently the witness meant the Mayor's Court.)

Kista Jiban stated that he made the entries when the papers were called for by the Adalat, (Mayor's Court,) and that as near as he could remember, he did so four and a half years before. This would make the date December 1770. He afterwards said, however, that he made the account a little after the accounts came into the Court. Unfortunately the entry was not dated, and Kista Jiban said that he could show fifty which had no date, (1024.) Mr. Farrer is said to have produced an account delivered in by Padma Mohan on 1st October 1774. Of course, this date is wrong, for Padma Mohan died in December 1771. Probably 1st October 1771 is the true date, as that was the day on which Padma Mohan attended, and was put under the charge of peons. This would make the date little more than three years previous to the time of his giving evidence.

Sir James Stephen has a note about the kararnama, (I, 158) which contains two extraordinary misstatements.

He says "Impey had only to insist upon a rigid application of the rules of evidence, and he would have shut out the strongest part of Nanda Kumar's defence. According to the strict rules of evidence, the entry made by Kista Jiban Das in Ballaki Das' books after his death, on the report of Padma Mohan, was no evidence. It was a mere record of Padma Mohan's statement, which would not be evidence. As to the kararnama, the necessary preliminary proof to make secondary evidence of its contents admissible was not given. It was traced to the possession of either Nanda Kumar or Padma Mohan, but Nanda Kumar did not produce it, and there was no evidence as to any search among the papers of Padma Mohan."

Now it is not true that Kista Jiban's entry was a mere record of Padma Mohan's statement. Kista Jiban began by reciting Padma Mohan's statement and was stopped by the Court who told him, as Sir James Stephen does now, that this was no evidence. Thereupon Kista Jiban went on to say that he saw the Caratama which was written by Padma Mohan, and signed by Ballaki Das.

*Question.*—Are you sure Ballaki Das' hand was signed to it?

*Answer.*—I saw with my own eyes that the handwriting of Ballaki Das was to it?

*Question.*—Was his name signed to it?

*Answer.*—These are the words written in the handwriting of Ballaki Das. "It is written by Ballaki Das, written above by Padma Mohan Das, the space of six months."

Lower down he was asked: 'Did you, from the date (I suppose it means datum) of that paper, make an entry in the books, and he answered: Yes. Impey's charge might have set

Sir J. Stephen's right here, for he said that one of the two pieces of written evidence relied on by the prisoner was "the entry in the book *from the kararnama*."

Then, again, there was a search made among Padma Mohan's papers for the kararnama. We have seen that Mr. Jarret proved service of notice to produce, on Padma Mohan's heirs. His father and brother too appeared in court and gave evidence. Lachman, the brother, deposed that he did not come to Calcutta till eight months after Padma Mohan's death, and that Padma Mohan's papers were in court. Sib Nath, the father, said that he was in Patna when Padma Mohan died, and that he never had any of his papers. After that Kista Jiban went with Mr. Sealey, the former Registrar of the Mayor's Court, and searched for the kararnama.\* He said he had looked over *every one* paper, and could swear that it was not among them. According, however, to the practice followed throughout the trial, Mr. Sealey was called to contradict him. He said that he was present when Kista Jiban looked over the papers, and that he did not look at some because of the indorsements, and some, because they were old, and some, because he had tied them up himself. Sealey added that he apprehended the papers could not be examined in less than three days. Then Kista Jiban was recalled and asked, did you examine every bundle? *Answer*.—There were several large bundles of papers of old accounts, that I did not examine, thinking them of no use. On this the Court said "this will not entitle you to read any paper, or make what Kista Jiban Das said evidence. But though it is not strictly so, I will nevertheless leave it to the jury." Here we have an individual judge speaking as the Court. I presume that this was Impey, and it shows the prominent part he took. We are not told in so many words that the papers searched were Padma Mohan's, but there can be no doubt they were so, for Padma Mohan's brother had just said, "both Padma Mohan Das' private papers and those of Ballaki Das were in the Court. Ganga Vishnu has taken away Ballaki Das' papers. † Padma Mohan Das, remain there."

We thus see that Sir J. Stephen is wrong in saying that there was no evidence of a search among Padma Mohan's papers. There was a search, and it was such as would probably have satisfied most persons. Notice was also given to Mohan Prasad to produce the papers, and Mr. Jarret's clerk proved that the notice was served, but of course, Mohan Prasad denied that

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\* The witness did not say in so many words that he looked for the Kararnama, but he said he looked for a paper wrote in Ballaki Das' hand, signed by Padma Mohan. It was a paper in which all the agreement was drawn. (1034.) This could only have been the Kararnama.

† It will be remembered that they were separated on 27th April 1775.

he had such a paper. (980) Apparently the copy was not admitted, because service of notice on Ganga Vishnu was not proved, for this was the objection made by the Court on the last day but one of the trial. (1049) If so, was this fair? Ganga Vishnu was declared to be a helpless invalid, and Mohan Prasad was his attorney and had got notice to produce, and had sworn that he had not the paper. Was notice to the agent not enough, and was Impey justified in saying, after all the steps taken by the defence, that their attempt to establish the kararnama as evidence, failed of legal proof? So far from thinking that Impey admitted evidence too easily, it seems to me that he wrongly excluded it. Search for the original having been proved as above, he surely ought to have admitted the copy of the kararnama which Mohan Das made from the original, and which was attested by the brahman, Sango (?) Lal and by Chaitanya Nath. Mohan Das deposed that after he had made the copy he read it (with the original, I presume,) and altered the words that were wrong. Chaitanya Nath deposed that the paper was read out to him, and that he signed his name in Bengali. He was then asked if he understood Nagari, and replied that he did not, but that he spoke Hindustani. Then he was asked who explained the papers to him in Bengali. I suppose the Judges were not aware that the only difficulty that Chaitanya Nath could have with the Nagari was in reading it. Any one who can talk Hindustani can understand Nagari, *i. e.*, Hindi, when it is read to him. This Chaitanya Nath was a Bengali and lived at Murshidabad. He asked to be examined in Bengali, saying that he did not know Moors well. Messrs. Elliot, Jackson and Jebb all swore that he knew Moors perfectly well, and Weston the juryman clinched the matter by saying that Chaitanya Nath spoke Moors better than he did Bengali! It would have been strange if it were so, and still more strange that Weston should know it. In spite of Weston's Eurasian blood and training, I prefer to believe that Chaitanya Nath knew his mother-tongue better than a foreign one.

#### EXHIBIT M.

According to chronological order this document comes before the entries in the books of Ballaki Das, but I have thought it best to describe these immediately after the kararnama from which they were made.

Exhibit M. (982-83) is a statement of the account between Nanda Kumar and Ballaki's estate. It seems to have been a diglott-Nagari and Bengali. The Nagari was written by Padma Mohan Das and the Bengali by a writer of the Maharajah, named Poresch Sudan (?) Gupta. Chaitanya Nath said that this man

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was in Calcutta, but apparently the Court did not summon him. I now insert Ex. M. first, verbatim, as it stands in Howell, and secondly in the form which seems to me to be correct.

(1) Nagree paper fixed and marked Exhibit M. of which the following is a translate.

### ACCOUNTS.

Rs.	As.	
66 320	7	Amount of a bond.
50,488	7	One time
10 920		One time.
61 468	7	
4 912	0	Batta at 8 Rs.
60 0 0	0	One time Darbar and other expenses.
11,362	8	A bond on account of a mortgaged house.
2,552	0	Ready cash 2,200 Rs.
596	2	On account of Dearcam Chund Chee Tawn 527 1/2.
145,804	1	
1,600	0	Paid by Chitonaute at one time 1,500
		1,500
145,804	1	
Rs.	As.	Tomusook
73,435	0	4 bonds 20,000, 20,000 13,435 Khut
60,000	0	Three notes 20,000 20,000 Khut
10,000	0	One note 10,000
		Tomusook
143,435	0	Bonds 8
2,369	1	Current rupis remain due
145 804	1	

(Signed) MOHUN PERSAUD.

PETITIONER DOSS.

Dr. *Translation of the ... account, Exhibit M. (Exhibit 982-83) (with modifications and corrections)\**  
*The Estate of Lalali Das in account with Maharajah Nanda Kumar.* Cr.

I. To amount of a bond	...	66,320	7	0	By eight Company's bonds aggregating	...	1,43,435	0	0
At per cents					Balance due to Nanda Kumar	...	2,369	1	0
50,488	7	0					1,45,804	1	0
10,920	0	0							
• 4,912	-	0	(Exchange at 8 D. C.)	0					
II. Dabur and other expenses	...	60,000	0	0					
III. Paid on account of a mortgaged house	...	11,302	8	0					
IV. Ready cash 2,000 and exchange at 16 p. c.	...	2,532	0						
V. On account of Dharam Chaud Rs. 527 and exchange at 8 D. C.	...	569	2	0					
VI. Paid by Chattanya Nath	...	3,000	0	0					
<i>Details.</i>									
On item Rs 1,500									
Do. " 1,500									
VII. Paid to Dharam Chaud as per letter	...	2,000	0	0					
Ex. L. ...									
		1,45,804	1	0					

(Signed). MOHAN PRASAD.  
 PADMA MOHAN DAS.

\* It will be observed that neither Ballak's executors or Nanda Kumar was paid in bonds, and this may have deducted seriously from the value of the payment. For Bolts tells us (1,267, note) that the Company's Bengal bonds had been discounted in Calcutta at upwards of fourteen per cent.



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In making up this account, I have had to allow for errors in Howell's text. It is clear that as it stands in Howell it is wrong, for the true total of the figures shown on the debit side would be 143,835, and not as printed, 143,804. This discrepancy can, I think, be easily explained. The item set down as on account of Dharam Chand is Rs. 596-2, but if we assume that the 6 and the 9 have become transposed, as might easily happen in copying, we get an item which harmonizes with the total—for by reading Rs. 569-2, instead of Rs. 596-2, we get a reduction of 27, and this is exactly the difference between 143,835 and 143,804. The propriety of the correction becomes almost unquestionable when we find that Rs. 569-2, is exactly the value in current rupis of Rs. 527, the sum in the margin of the account, if the latter were arcots and converted at the established exchange of 8 per cent. This is the rate at which the large bond has been converted into current rupis, though the item of Rs. 2,200 has been converted at the rate of 16 rupis, that is the rate for the conversion of sikkas.

The grand total shown on the debit side is Rs. 145,804, but the details amount to only Rs. 143,804. I have, therefore, conjectured that the difference may be reconciled by debiting the Rs. 2,000 which Ballaki asked Nanda Kumar to pay to Dharam Chand. This sum was to be paid out of the Company's money (vide Ex. L) and it is conceivable that Nanda Kumar may have paid it, and yet that it should not be entered in the account, either through oversight, or because the receipt and the payment were simultaneous.\* The total of the bond shown in this account (Ex. M) does not agree with the entry made in the books by Kista Jiban under the directions of Padma Mohan. The annas agree, but there is a difference of Rs. 3,310 in the rupis, the figures in the account being Rs. 126,320 and in the books Rs. 129,630. I cannot fully explain this discrepancy; possibly it is due to differences in the mode of calculating the exchange. The figures shown in the account are arcots, as is proved by the exchange being at Rs. 8½, and thus it appears that the amount of the bond was first converted into arcots, and then again into current rupis. In Kista Jiban's account the conversion was made at once from sikkas into current rupis at 16 p. c. A percentage of Rs. 2-4-10 would nearly give the difference between Rs. 60,026 and Rs. 61,408, and such an exchange would not be abnormal for arcots. I may here observe that it is difficult, and perhaps in some cases impossible,

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\* Another possible explanation is that the figures may have been incorrectly copied from the Nagari, and that Chaitanya Nath may have paid two sums of Rs. 2,500 each.

† See Belts, I, 205.

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to ascertain what was the rate of exchange adopted on certain occasions. Verelst (App p. 245) gives a diary for 3 months, (June-August 1768) showing how the exchange fluctuated from day to day. In the account produced by Nanda Kumar against Hastings, a sum is shown as the amount for the exchange from arcots into sanwats, but I cannot make out the exact percentage, though it is nearly three per cent.

It may be that the difference is due to something having been written off in Ex. M. It will be remembered that Kista Jiban's entries were made from the kararnama and without any reference to Ex. M. It may be fairly argued, I think, that the very fact that Ex. M does not quite agree with Kista Jiban's entries or with the kararnama, is evidence that it is an independent account, and not prepared in collusion with Padma Mohan or Kista Jiban.

That Ex. M is intended to represent transactions between Nanda Kumar and Ballaki's estate, no one can doubt who is acquainted with the facts of the case and the names of persons concerned therein.

The item of Rs. 11,362-8 for a bond on account of a mortgaged house, is probably the Rs. 10,000 lent by Nanda Kumar to Ballaki at Chandernagore. The fact of the loans being secured on a house, explains how the lease of a house came to be returned when the debt was satisfied. I cannot explain how Rs. 10,000-8 became Rs. 11,362-8. This may be by addition of interest or it may be by exchange. A percentage of Rs. 13, annas 10 would give the difference exactly, and this is by no means an unlikely rate of exchange for converting sanwats into current rupis. There is a curious resemblance between the Rs. 11,362-8 here shown, and the item of Rs. 11,262-8 set down in Ex. Q, as due to Mohan Prasad. I do not suppose they represent the same transaction, but the figures seem to point to a similarity in the mode of calculating the interest or the exchange. Rs. 10,862-8 which is the amount of an item in Mohan Prasad's sum would be Rs. 10,000 plus Rs. 8-10 p. c.

I cannot quite explain Mohan Prasad's statement, (950) that Nanda Kumar said he and Padma Mohan had made out three papers, one for Rs. 48,021 sikkas and two others aggregating Rs. 35,000 arcots. If the evidence was true, Nanda Kumar may have been referring to the kararnama, which, according to Kista Jiban, (1,061,) mentioned Rs. 35,000 on account of *tips*.

The other two accounts to which I have referred may be dismissed with a few words.

The account of 1st October 1771 delivered in by Padma Mohan and of which Mr. Farrer produced a copy, (1,024) is not in the report. Ex. Q is filed, but though it is very long, it

contains nothing about Nanda Kumar nor does it open with a balance referring to his transactions. Magal Calustry mentioned in it is probably a misprint for Miguel Van Colster.

The most important thing about the paper M. is that it was signed by Mohan Prasad. There is a conflict of evidence as to when and where this was done. Chaitanya Nath, the Maharajah's treasurer, deposed that Mohan Prasad signed the account in his presence at Nanda Kumar's house. He said that there were two adjustments of accounts. First Mohan Prasad, Ganga Vishnu and Padma Mohan came and settled the accounts in conversation. On another day two of them only were at the house of Nanda Kumar and signed the account. These two must have been Padma Mohan and Mohan Prasad, for he had said just before that they signed in his presence, and at Nanda Kumar's house. He said that the persons present were Jai Deb Chaubé, Paresh Sudan Gupta, Mohan Prasad, Ganga Vishnu (apparently his presence must refer to the first settlement), Padma Mohan Das, Nanda Kumar and himself. No previous accounts were produced as far as he saw, but the balance settled was Rs. 2,369-1, *i. e.*, the balance shown in Exhibit M. This balance was struck when the bonds were delivered to the Maharajah. This, I think, may enable us to fix the date of the account as 14th January 1770, for we know from Chaitanya Nath's evidence that the bonds, though given to the Maharajah at the settlement of account, were not indorsed over to him till the following morning, and I think we may assume that the receipt Ex. F. was not granted till the transaction had been completed by the indorsement of the bonds. Ganga Vishnu would have been an important witness about the settlement, and the defence was anxious to call him, but were unable to do so. Jai Deb Chaubé was not examined or cross-examined on the point.

Mohan Prasad's account of the affair is given at 982 and 1044. He admitted his signature on Exhibit M, but professed not to know if the other was Padma Mohan's, and said that he did not think that the body of the document was in Padma Mohan's handwriting. Fortunately, Lachman, the younger brother of Padma Mohan, was able to prove that both the signature and the whole document were in his brother's handwriting, and Kista Jiban deposed to the same thing, so that Mohan Prasad was discredited by two witnesses. Mohan Prasad denied that he signed the paper at Nanda Kumar's house, or that the account was settled there in his presence. What he said was that the paper was drawn out in order to show it to Ballaki Das' widow. He said that he signed it at his own house, (1046,) and 18 or 20 days after the bond (qy. bonds?) was received by the Maharajah. But even this will not make

the transaction later than the first part of February 1770, and consequently many months before any accounts were filed in the Mayor's court. The fact that the paper was, according to Mohan Prasad, shown to the widow, also enables us to fix its date within moderate limits, for the widow retired to Benares a month or two after receiving the Company's bonds. (1026.)

Mohan Prasad was asked why he signed the paper and he replied, "When Ballaki Das' widow called me to her, she observed my signature was not to it; upon which Padma Mohan Das observed that the widow of Ballaki Das had taken notice of my signature not being to it. He said, here is no name, no tips, no account; only put your name to this. Why do you make any doubt about it? Only sign it, and I will give it you back."

Then he was asked if it was Maharajah Nanda Kumar's account to which he replied by asking if they could find his name to it. Then he denied that it was his account. Further on in the report, however, he said, "It is Maharajah's account, the *darbar khurach* is there, he took the bond for Rs. 129,000 and obtained Rs. 60,000 for *darbar* expenses."

Mohan Prasad's attempt to get over Ex. M seems to me very suspicious. The omission of Nanda Kumar's name from it may have emboldened him to deny that it was Nanda Kumar's account, but he could hardly venture to deny that it related to Nanda Kumar's transactions. The mention of a bond for Rs. 66,320-7, of the name of Dharam Chand, Ballaki's former partner, of Chaitanya Nath, and of the eight Company's bonds, was sufficient to put this beyond doubt. It will be seen hereafter that Mohan Prasad had made a similar defence in the Civil Court. There, too, according to Rouse, as quoted by Sir J. Stephen, he admitted that he had signed the paper, but denied that it was an account with Nanda Kumar. That the paper filed in the Civil Court was Ex. M. is shown by Rouse's account of it as an adjusted account, showing a small balance in Nanda Kumar's favour. We know, too, from Mohan Prasad, that Ex. M was filed in the civil suit, for he tells us that he saw it there. (1046.) I do not believe Mohan Prasad's story about his signing it afterwards at his own house, and merely to satisfy the widow. I prefer to believe Chaitanya Nath; 1st, because Mohan Prasad's signature is above Padma Mohan's (983,) which is not likely to have been the case if he signed afterwards; and 2nd, because if the paper was with Padma Mohan and at Mohan Prasad's house, I do not see how Nanda Kumar came to have possession of it; and yet we see that it was he who filed it in the Civil Court. Nor do I believe for a moment that Mohan Prasad would sign an incorrect paper merely to please the widow. At least, if he did so, he would have taken care not to let it go out of his possession. He evidently was conscious of this improbability,

for he says Padma Mohan promised to give it him back. Why did he not insist on this being done ?

My impression is that Mohan Prasad wanted to get Ex. M. confounded with the far later account filed by Padma Mohan, and that he was successful in this respect with the Chief Justice. The latter says nothing in his charge about Ex. M. or about Chaitanya Nath's evidence, and only speaks of the accounts filed in the Mayor's court. There were two such accounts, *viz.*, one signed by Padma Mohan alone, and another, Ex. Q., which he and Mohan Prasad signed (1023.) The first of these two accounts was apparently shown to the widow, and this probably is the reason why Mohan Prasad spoke of Ex. M. as having been shown to her. But that account was quite different from Ex. M. It was a general account of the affairs of the estate, though it included Nanda Kumar's account, and it ended with a balance of Rs. 60,000. Besides, it was written by Kista Jiban and not by Padma Mohan, and was not produced at the trial (1025-1026.)

Sir J. Stephen says ditto to Brother Impey, and passes over Exhibit M. *sub-silentio* ! Truly, the slap-dash, *pode sicco* fashion in which these two English judges pass over the accounts, is very wonderful ! Boughton Rouse was an oriental scholar, had native colleagues, and was trying merely a civil suit, yet he shrank from deciding the cause as it depended materially on accounts in Nagari. Lemaistre and Hyde, after being barely six months in the country, decide in one day, and apparently chiefly on the oaths of Mohan Prasad and Kamiladdin (see their warrant to the Sheriff) that Nanda Kumar is guilty and send him to jail. Impey next month either says nothing of Ex. M., or what he does say is misleading, and their apologist, who is also a judge, declines to encumber his narrative with a mention of the papers !

When Sir James Stephen says that there is not a single observation in Nanda Kumar's favour which was not noticed by Impey, has he ever thought of Exhibit M. ? Was it not Impey's duty to put this Exhibit prominently before the jury, and to point out to them that if they believed Chaitanya Nath, it would be very difficult to convict the prisoner, for Chaitanya Nath deposed that the account was adjusted at Nanda Kumar's house and in Mohan Prasad's presence ? Were not the facts that Ex. M. was signed by Mohan Prasad, and that it had been used in the Civil Court by Nanda Kumar of the highest importance ? Could it be believed that if the bond really was a forgery, and that Mohan Prasad knew it to be such, he would sign such an account as this and allow it to pass into the hands of Nanda Kumar ? Was a paper which was Nanda Kumar's chief reliance in the Civil Court of so little importance when he was being tried for his life, that the

Chief Justice should say nothing about it? Did conduct such as this not justify the averment in the impeachment, that the Chief Justice instead of acting as counsel for the prisoner "became in effect the agent and advocate of the prosecution, and pronounced a charge when he summed up the evidence on the said trial with the most gross and scandalous partiality, dwelling on all the points which appeared favourable to the prosecution, and either omitting altogether, or passing lightly over such as were favourable to the prisoner, and manifesting throughout the whole proceeding an evident wish and determined purpose to effect the ruin and death of the said Maharajah?" Finally, is it not almost a scandal that an English judge of the present day should write of the above averment that every word of it appears to him to be absolutely false and unfounded? Not that I mean to reprehend freedom in expressing opinion, but surely one in Sir James Stephen's position should have studied the exhibits before dogmatising as he has done. In one place, (250) he argues against Hastings having to do with the prosecution from his necessarily being uncertain as to its issue, and triumphantly asks "How could Hastings or his friends tell that Nanda Kumar might not have documents clearly proving that the transaction was a thoroughly genuine one, that he might not, *e. g.* have a receipt for the jewels?" How indeed? Was it not enough for them to know that it was a case of *Jupiter hostis*? \* As a fact Nanda Kumar had convincing documents and produced them. He had a genuine impression of Ballaki's seal which agreed with that on the bond: he had letters in envelopes sealed by Ballaki; he had a copy of the *karinama* which had been compared with the original; he had proof that the original was missing or was in the hands of Mohan Prasad: he had an adjusted account signed by Mohan Prasad early in 1770 (*Ex. M.*) and he had the entries made by Kista Jiban. What was there on the other side? Some five witnesses, of whom only four were important, Kamiladdin, Mohan Prasad, Sadaraddin, and Naba Krishna. The first was the *farzi* of Hastings' banyan, † the second was the signer

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\* I think it was Curran who, when before an unfriendly tribunal, and when his adversary was thundering against him, whispered—

*Non me tua fervida terrent*

*Dicta, ferox; di me terrent et Jupiter hostis.*

† Kamiladdin had two farms; one was at Hijli, and with this apparently Kanta Babu had nothing to do. The under-renter, and according to Barwell and the Supreme Court, the person really liable for the rents, was one Basant Rai.

The other was a farm of 401 salt works, or *Thika Khalaris*, as they were called. These had belonged to Kanta Babu who held them under the name of his son Lok Nath Nandi. They were afterwards farmed to Kamiladdin, and Hastings declared that his banyan had no longer any

of Ex. M., the third was a hanger-on on Barwell, and the fourth was an old banyan, and a man of vile character.

Even Sir J. Stephen admits, (252,) that the case for the prosecution was far from being overwhelmingly strong, and that it was little more than a *prima facie* case. But he founds a peculiar line of argument upon this. His view is, that as the case was weak, it follows that it was a *bonâ fide* private prosecution, and that Hastings had nothing to do with it! Most people, I should think, would be inclined to say that if the case was weak, and yet the prisoner was convicted and hanged without any attempt by the Judges or jury to save him, it was probable that the whole affair was pre-arranged and that the trial was a farce.

Sir J. Stephen argues that if Hastings knew of the civil proceedings he would have put them in. This, he says, because Farier speaking some 13 years afterwards, said the civil proceedings were not altogether favourable to the defence. But Mohan Prasad knew of these proceedings if Hastings did not, and if he was a *bonâ fide* prosecutor, as Sir J. Stephen says he was, why did he not put them in? Nobody says that Hastings or his friends had a minute knowledge of the civil proceedings, but that he knew of the suit appears clearly from the fact, vouched for by Impey, as being notorious in Calcutta, and which is alluded to by Price, that when Palk confined Nanda Kumar, Hastings directed his release. Hastings' motive for this is clear enough. Palk confined Nanda Kumar in June or July 1772, and at that time Hastings was employing Nanda Kumar to expose Mahomed Raza Khan. It was in July 1772 that Nanda Kumar's son, Gour Das, was made Diwan.

connection with them, and that indeed he had been seriously injured by their being given to Kamiladdin. But it is clear from Kamiladdin's own petition (1100) that Kanta Babu retained his interest in them, for the petition states that Ram Prasad Mukarjya under-leased the Thika Khalaris from Kamiladdin on account of Babu Leekenace and Nundee giving Mr. Archdeakon as his security. Now there can be no doubt that this extraordinary name, Leekenace and Nundee is a corruption of Lok Nath Nandi, the son of Kanta, who was then a boy of 10 or 12 years of age.

Kamil's petition of 13th December 1774 (that presented by Hastings to the Board) refers to Kanta Babu's salt, and there are papers in the Board of Revenue Office showing that 26,000 maunds of salt belonging to Kanta Babu were delivered to him because he had made them before Kamil got his farm. There is also a report on the subject of Kamiladdin's debts by the Provincial Council of Calcutta, printed in the Bengal Appendix (No. 32 F, 642) It is dated May 12th, 1775, and shows that a balance of about 1½ lakhs of rupis is due by Kamil. The report mentions that 26,000 maunds had been given up by the Governor and Council to Lok Nath Nandi, and Kamil gets credit accordingly, the demand against him being reduced from 100,000 maunds to 74,000.

THE CIVIL SUIT.

The Civil Suit was instituted in the Court of Kachahri. This was a country, or Company's Court, and not a Court of record, or established by Royal Charter, as was the case with the Mayor's Court. Bolts, (Vol. I, p. 80), describes it as follows: "The Court of Cutcherry, on its present establishment, is composed of the Company's servants under Council, any three of whom, their President being one, upon days stated at their own option, meet for the hearing, trying, and determining in a summary way, all matters of meum and tuum to any amount, wherein only the native inhabitants of Calcutta are concerned. The mode of proceeding is indeed as summary as possible. The plaintiff and defendant, with their respective witnesses, being summoned, the Court hears what they have to offer and prove, *vis à voce*, and immediately proceed to decree in such matters as do not admit of much contest. From the decisions of this Court the Company have directed appeals to lie finally to the Governor and Council; which, however, is seldom done, except in matters of the greatest consequence, as it is in those cases the general practice of the Court, when not unduly interrupted, to have every cause determined by arbitrators or umpires chosen by the parties, or with their consent; whose decision is final, and made a decree of the Court.\*" It appears from the evidence of Yar Mahomed who was a witness in the cause, and so was likely to remember, that the suit against Nanda Kumar was instituted about the middle of 1772. Speaking in June 1775 he said that the suit had been instituted about three years before; this, too, would agree with Kamiladdin's statement that Mr. Palk confined Nanda Kumar about three years ago (937).

The suit seems to have been instituted by Ganga Vishnu though it is very likely that the Gosain had a hand in it. Nanda Kumar was the defendant. The suit was for Rs. 129,630-7 which were said to be due to Ballaki's estate on account of Company's bonds. It is clear from the amount that the suit was based on the entries made by Kista Jiban under the orders of Padma Mohan.

The Court of Kachahri was then presided over by a civilian of the name of Robert Palk, and it appears that he arrested Nanda Kumar for contempt of Court. This is described by Price in his peculiar style. He says that "a suit was commenced against

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\* Cowell tells us nothing about the Court of Kachahri or even about the Diwani Adalat which succeeded it. Like many other volumes of Tagore Lectures his is poor value for Rs. 10,000. It appears from Holwell's Tracts (p. 178) that the Court of Kachahri was reorganized in 1758. Formerly it was the Zamindar's Court, and was presided over by the Collector of Calcutta. Holwell presided over the Zamindar's Court for four years from July 1752 till the capture of Calcutta.



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Nanda Kumar in the country courts ; a spirited young gentleman, then President of the Cutcherry, sent and arrested the Raja for contempt of Court, and without paying any regard to the solicitations of the Governor of Bengal for the time being (not by committing to disgrace a nobleman and Brahman of his high order,)—he sent him to the common prison of his Court. The commitment being only for contempt, the Raja by making proper concessions, got out again and the suit went on.” Impey referred to this before the House of Commons, saying that “it was in evidence that Mr. Palk, Judge of the Adalat, had confined Nanda Kumar for the forgery ; and that it was notorious that Mr. Hastings had ordered him to be released. This of itself was sufficient to prevent any native inhabitant of Calcutta from commencing a prosecution against him.” Before I proceed to notice Sir James Stephen’s remarks on Impey’s statement, I beg to call the especial attention of my readers to this last sentence. Is it not a plea by confession and avoidance that no attempt was made to prosecute Nanda Kumar before May 1775 ? or at least, is it not an admission that there was no prosecution after Nanda Kumar’s release by Hastings till May 1775.\*

Sir J. Stephen’s remark is as follows :—“ Palk’s evidence, if he gave any, is not in the report of the trial. The evidence of Farrer and Boughton Rouse given before the Impeachment Committee after Impey’s defence, does not mention this, and is hardly consistent with it. I think, therefore, that Impey must have been mistaken in his assertion.”

This is a proof, if any is wanting, of the hasty manner in which Sir J. Stephen has got up his case. Palk† did not give evidence, but Kamiladdin did, and he was sufficient authority for Impey’s statement that Palk confined Nanda Kumar, (937.) but the statement that he confined him for forgery is not true nor was it made by Kamiladdin. I think Impey must have known that the statement was false, for he could not have forgotten what took place before himself at the examination of General Clavering in the conspiracy case. (1221-22.) Then Impey knew better about the functions of an Adalat, for he asked (or one of his brethren asked) Clavering how there could be a charge of felony

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\* If there had been a prosecution for forgery in 1772, and there the matter had been dropped and not revived till the quarrel between Nanda Kumar and Hastings, this would strengthen the probability of the prosecution’s being instigated by Hastings who knew all about the civil suit and the imputation of perjury cast upon Nanda Kumar. (See Price, Impey, and Clavering.) Probably Sir J. S. saw this, and preferred to reject Impey’s statement.

† Palk was probably a son of Sir Robert Palk, who rose from being a Company’s Chaplain at St. David’s, to be Governor of Madras. The death of his wife Lucia in 1772, is chronicled in the Bengal Obituary.

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in a Civil Court.\* We may note here Price's account, according to which Hastings did know of the confinement and tried to get Nanda Kumar released. I do not believe that Palk sent Nanda Kumar to jail; he probably was not such a fool as to do so, and if Nanda Kumar had really been in jail, we should have heard about it in the discussion of his treatment when confined later.

The Court of Kachahri was superseded by the Civil Court which was established under the regulations of Aug. 21st, 1772. Mr. Boughton † seems to have been its first judge. I have not seen Mr. Boughton's evidence since writing my articles on Warren Hastings (in 1877) and I must therefore rely on Sir James Stephen's account of it. It appears that he said the Civil Court was instituted in December 1772. No doubt some time would elapse before the August regulations were carried into effect, and the intervention of the Puja holidays would prevent much work till November or December. Boughton said that Mohan Prasad was Ganga Vishnu's attorney. I find, too, from an old note of my own, that he was described as being a very litigious man. Boughton said that Nanda Kumar set up an account stated to be adjusted between himself and the representatives of Ballaki Das, and shewing a small balance in his favour. No doubt this was Ex. M, which shows a balance of Rs. 2,369 in Nanda Kumar's favour. He further said that the account had been signed by the plaintiff and Mohan Prasad, but that they denied that it was an account with Nanda Kumar. Here Boughton's memory must have failed him and, indeed, the wonder is that he remembered so much. The account was not signed by Ganga Vishnu but by Padma Mohan. I cannot understand their denial that the account was one with Nanda Kumar. His name may not have been on it, but if they really said that it did not relate to Nanda Kumar's dealings with Ballaki Das, they must have lied. It is perfectly clear from the mention in it of the bonds, and from the occurrence of the darbar expenses, the jewels-bond, Chaitanya Nath, &c., that it was Nanda Kumar's account. Probably they said that it was not an adjusted account, though it is not easy to see how they could have said even this when the names of Mohan Prasad and Padma Mohan were on it.

The suit does not seem to have been actively proceeded with in 1773. Price says, with his usual coarseness, that this was due to Boughton's being corrupt, and refers to a case in which he

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\* See also his charge where he says that there appears to have been a suit in the Adalat, which must have been a civil suit.

† Boughton seems to have assumed the name of Roue subsequently. He was no doubt connected with the Sir Theodosius Boughton who was poisoned by his brother-in-law with laurel water.

says that the Supreme Court made Boughton disgorge Rs. 3,000 which he had taken from a litigant in whose favour he had given a decree for Rs. 8,000 (letter to Burke p. 63.) It appears, however, that one reason at least of the delay was that the Court found it necessary to investigate the antecedent transactions which related to the deposition of Company's bonds in the hands of Nanda Kumar, and called on the plaintiff for a more minute explanation of his demand. He accordingly sent in an amended bill of complaint in February 1774, in which the circumstance of three fictitious bonds was alleged. Sir J. Stephen says that this must mean to refer (sic) to fictitious bonds from Ballaki Das to Nanda Kumar. But I imagine that it refers to the three papers which Mohan Prasad said Nanda Kumar told him that he and Padma Mohan had drawn out, *viz.*, one for Rs. 48,021 sikka, and other two aggregating Rs. 35 000 arcots. (950.)

After the Court had heard evidence, it recommended arbitration, because the plaintiff desired it, because the case was intricate, and depended materially on Nagari accounts, and because if a decisive opinion had been expressed in favour of plaintiff, there would have been an implied charge of forgery against Nanda Kumar, also because one of the native members of the Court was known to have been recommended to his office by Nanda Kumar. Boughton might have added that a resort to arbitration was expressly recommended to the Civil Court in all cases of disputed accounts by Article 22 of the Regulations of August 1772 (Harington, II, 5.)

Boughton said further that Nanda Kumar at first made a difficulty about referring the case to arbitration, but consented at last, and that even then the *parties*, as far as Mr. Rouse remembered, could not agree about arbitrators, and whilst matters were in this suspense the Supreme Court arrived in Bengal. Commenting upon this Sir J. Stephen says, "In a word, litigation which had lasted upwards of two years was brought to a stand-still by the reluctance of the Court to proceed in a course which might cast upon Nanda Kumar the imputation of forgery, and by Nanda Kumar's refusal to agree upon arbitrators after a reluctant consent to refer the matter had been obtained from him. It is not at all surprising that in these circumstances the attorney for the plaintiff should recommend his client to adopt the shorter and sharper course of prosecuting Nanda Kumar criminally." My first remark here is that I do not see where Sir J. Stephen gets his authority for saying that it was Nanda Kumar who would not agree about arbitrators. Rouse says that the "parties" could not agree, and this might mean the plaintiff. Then again I do not see why Sir J. Stephen should speak of Mohan Prasad as the plaintiff in the case, and as Mr. Driver's client. Mohan Prasad was not the plaintiff; and

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Ganga Vishnu, and not Mohan Prasad was Driver's client. As Impey remarked in his charge, Mohan Prasad does not seem to have been a party to the civil suit.\*

Rouse's statement that an amended bill of plaint was filed in February 1774, though it is possible that there was a mistake of a month here, is very important, as it enables us to understand Driver's petition to the Mayor's Court of 25th March 1774. Sir J. Stephen refers (I, 96) to this petition in support of his allegation that there was an attempt at a criminal prosecution many months before the Supreme Court was established, but it seems to me that it is evidence the other way. The following copy of the petition will enable my readers to judge for themselves: "25th March 1774. Mr. Driver, attorney for Ganga Vishnu, read a petition from him, stating that by the order of the Court all the papers belonging to the estate of Ballaki Das were deposited in the Court, among which were 28 bonds, receipts and vouchers; that he had *commenced suits in the Diwani Adalat*; and wanted the said bonds, receipts, and other vouchers, in order to establish the same; and praying that they may be delivered to him, giving the usual receipt for the same." The Court deferred the consideration of the said petition till next court day. "Ordered that an officer of the said Diwani Adalat be permitted to attend at the Register's office to inspect the books, papers, and vouchers aforesaid." There is no statement here that Driver's motion was finally rejected. The terms of the Court's order imply that the motion was considered to be one which should properly have come from the Civil Court, and I should think that the papers would certainly have been given up to that court if a motion to that effect had been made by the president. It does not appear, however, that Mr. Driver ever asked the Civil Court to send for the papers. If the Mayor's court absolutely refused to give up the papers, Driver could have appealed to the Court of Appeals, and the Mayor's court was not a king's court or an independent court so that it could have refused submission. The application for papers was renewed before the Supreme Court, (to which the muniments of the Mayor's court had been transferred by the Regulating Act,) by Mr. Farrer, as advocate for Ganga Vishnu.

This application was made on 25th January 1775, and again

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\* Boughton Rouse also gave evidence about the civil suit before Touchet's committee in 1781, and there stated that after some examination, the Court of Adalat had repeatedly recommended arbitration to both parties, but they could not agree about the arbitrators, and to the best of his memory that was the difficulty. He said nothing then about a reluctance to try a case which might lead to Nanda Kumar's being charged with forgery. Farrer also gave evidence before the committee, and Captain Price also and William Hickey. (Was the last a relation of the Hickey of Hickey's *Gazette*?)

on the 30th idem. It was opposed by Mr. Brix as advocate for the father and brother of Padma Mohan Das, and the order given was that the register should, with the assistance of Hazari Mal and Kashi Nath Babu, examine the papers, separate those of Ballaki's estate from those of Padma Mohan's, and deliver the first to Ganga Vishnu and the latter to Sib Nath, father of Padma Mohan. There was some delay in this being done in consequence of Hazari Mal and Kashi Nath's not attending, but eventually Mr. Sealy, the register, separated the papers by the agreement of the parties, and delivered Ballaki's to Ganga Vishnu. Sir J. Stephen says, (I, 95) that the date of the delivery of the papers does not appear, but it is given in the report, in Mr. Sealy's evidence, who says that it was about the 27th April,\* Padma Mohan Das' papers remained in Court after the separation (vide evidence of his brother Lachman, 1034.)

I have now brought the history of the case down to close upon the institution of the criminal proceedings. It will be seen that Driver asked for the papers for the purpose of civil litigation, and not for the institution of the criminal proceedings. This, also, appears to have been Farrer's reason for applying for them. Had he asked for them in order to prosecute Nanda Kumar for forgery, he would hardly have become Nanda Kumar's advocate in May. We do not know all that took place in the Civil Court, but we know that Yar Mahomed, and Kista Jiban gave evidence in favour of the Maharajah. (1014 and 1062.) We also know that Yar Mahomed's evidence was given before Mr. Rouse, which shows that that gentleman took evidence in the case. This must have been in December 1772 at earliest. Further, Yar Mahomed at all events, if not also Kista Jiban, must have been a witness for the defence, and he could hardly have been examined until the case for the plaintiff was closed. Now it is a very extraordinary circumstance, and one which to my mind is almost conclusive against the genuineness of Kamiladdin's evidence, that he was not examined in the civil suit! It seems incredible that Ganga Vishnu or Mohan Prasad should have omitted to call him, if what he said at the forgery trial was true. According to Sir J. Stephen, (118,) Kamil's evidence was so important, that Nanda Kumar was willing to confess to him, in order that he might get the benefit of it. Why then, when Kamil proved virtuous, and refused to give false evidence even at the risk of losing his farm from inability to produce security, did not Mohan Prasad call him? Kamiladdin tells us (937) that he first heard of his name being forged from Mohan Prasad, and that this was

\* See also 1033, where it is said that the papers were separated on April 27th.

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two months before Mr. Palk confined Nanda Kumar, and two months before he got his post, which was three years previously. Consequently he must have heard of it in April 1772.\* From Mohan Prasad, Kamiladdin said he went to Nanda Kumar who confessed the forgery to him (!) and asked him to give evidence before the gentleman of the Adalat. Then he went and told Khwaja Petrusse, and Sadaraddin. Kamil wanted to complain about the forgery to Hastings and the Adalat, but Sadaraddin advised him not to do so, as Hastings had given Rajah Gour Das the khilat for the office of Diwan. This would make July 1772 the time of the conversation, for it was in that month that Rajah Gour Das was appointed. It is of course suspicious that he should have been so long in telling Sadaraddin, or in thinking of complaining, but at all events, he knew all about the forgery, and had thought of complaining long before Mr. Rouse had charge of the Adalat (December 1772.) In the course of the same deposition Kamiladdin made the strange statement that he had once seen the bond with Nanda Kumar. His words are ; "Mohan Prasad first told me that my seal was to a bond, and then the Maharajah himself told me he had put my seal to a bond ; *I saw the bond once before himself.*" If this is true he must have seen it as early as January 1770.

My authority for the statement that Kamiladdin did not give evidence, is a letter written by Nanda Kumar to the Council on 8th May 1775, that is, only two days after his commitment to jail. In this very important letter Nanda Kumar says, that he has been committed (to jail) on the evidence of witnesses who were not produced or even mentioned in the Civil Court, although the case had been pending then for three years. Now we know from Lemaire and Hyde's warrant to the sheriff, that Nanda Kumar was committed on the evidence of Kamiladdin, Mohan Prasad and others. There is also no assertion by any of the witnesses for the prosecution in the forgery case, that they gave evidence in the Civil Court. I may add here that the letter which I have just quoted contains ample evidence that Nanda Kumar knew who his prosecutor was, and so disposes of Sir J. Stephen's remark (I, 183) that Nanda Kumar had no definite knowledge or distinct suspicion on the subject. The letter begins thus ; "After having been honoured with the confidence of the Nawab Jafar Ali Khan, so especially the friend of the English, after having discharged the first offices in the Subah, after been now ten years retired from all public employment and having seen my son appointed to a distinguished post with this testimony (as I have been credibly

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He was then a poor man out of employment.

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informed) of the Governor's approbation of his father, that he instated my son in the post with view to his profiting from my experience and wisdom. I might perhaps startle the Honourable Bench with an address from the common jail had I not in a degree prepared them for some fatal change in my situation by a representation I made in the month of March 1775, of the severe menaces that had been uttered against me by the Governor-General. When the first Magistrate declares his determined intention of hurting an individual to the utmost of his power, the enemies of the man so marked for destruction, will eagerly grasp at an opportunity for gratifying their malice."

It is important to bear in mind that the amount of the jewels bond was not the only thing in dispute in the Civil Court. This constituted little more than half of the claim, for there were Rs. 60,000 for darbar expenses. There was thus a good foundation for a compromise or a reference to arbitration, and I do not think that it would be fair to infer anything against either party for their being willing to submit to arbitration. But it certainly seems to show that Mohan Prasad was not then anxious for a criminal prosecution, and also that either Kamil-addin's story was not invented then, or that Mohan Prasad did not think very much of his evidence. According to Kamil, Mohan Prasad knew all about the evidence he would give while the suit was still in the court of Kachahri, and yet we find Mohan Prasad willing to refer the matter to arbitration.

Another very important thing to be remembered is, that the civil suit was never decided. It was actually pending when Lemaistre and Hyde issued their warrant. I do not know if this rushing into criminal proceedings arising out of a pending civil suit was illegal then (it would be so in India now, and this has been the rule for many years) but surely it was most rash to take up the case criminally and to hang the defendant before the civil suit had been tried out. It was early found in India that much evil was caused by allowing parties to civil suits to institute charges of perjury and forgery, and the sanction of the Civil Court was made necessary. (See Reg. 3 of 1801, abstracted in Harington I, 348, and Construction of the Sadr Diwani of 13th July 1827.)

This point was noticed by the Select Committee when they said with reference to Nanda Kumar's case, that "the criminal fact alleged, was at that time, and had long been, in a course of examination in a civil suit, the event of which was to be decided by the authenticity of the instrument said to have been forged."

Sir J. Stephen says (I, 92,) "It is not at all surprising that in these circumstances (alluding to an alleged refusal of Nanda Kumar to agree upon arbitration) the attorney for the

plaintiff should recommend his client to adopt the shorter and sharper course of prosecuting Nanda Kumar criminally. His conviction for the criminal offence would not indeed operate as a verdict in his adversary's favour in the civil action, but if his goods were forfeited it would give him practically an irresistible claim on the Government, and if the law of forfeiture was not applied, the claim after Nanda Kumar's execution would practically be established against his representative." Now in the first place his claim would only have been established for about Rs. 70,000 out of Rs. 130,000. And secondly, it is a curious comment on this reasoning to find that Nanda Kumar's property all went to his son (Stephen I, 265) and that it was neither forfeited nor made over to Ganga Vishnu.

It is interesting to watch the slow progress of truth and to see with what difficulty she succeeds in driving Duessa from all her fastnesses and starting-holes. For a long time the favourite story was that there had been a criminal prosecution of Nanda Kumar in the Mayor's Court, and that this was brought into the Supreme Court in due course, in consequence of all the business and the records of the Mayor's Court being transferred to the Supreme Court under the Regulating Act. When this could no longer be maintained, it was said that, at all events, there was a civil suit in the Mayor's Court and that this turned on the question of the forgery. We now find, however, that this story too is incorrect, and that the Mayor's Court had never anything to do with Nanda Kumar, and that its only connection with the affairs of Ballaki or Ganga Vishnu was in its capacity as a Court of Probate. In fact there could not have been a civil suit in the Mayor's Court unless Ganga Vishnu and Nanda Kumar had consented to have it there, for only in that case would the Mayor's Court have jurisdiction. As there was no such consent, the suit was brought in the County Court, that is, in the Court of Kachahri.

The limitation in the jurisdiction of the Mayor's Court was well known to Captain Price, and he gives it as a reason why the Mayor's Court was not resorted to. He is a grotesque and even ruffian like author, but he had local knowledge, and was a contemporary, and so he wrote "our Mayor's Court from the nature of their charter, could not take cognisance of civil suits between natives; this, and the idea that a man who had possessed himself of other people's money in the manner the Rajah had, could only be obliged to return it, is supposed to have prevented an earlier appeal to our criminal law." Here Price, who solemnly calls upon Rouse and Farrer to contradict him if he makes any mistake, goes on to describe the meeting of the legatees and the determination to prosecute, and it is important to notice that according to him, this was all done on a



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sudden, after the Company's lawyer (Durham) had gone to them with the bond. Now that must have been after the 27th April 1773

It is evident (I, 90) that Sir J. Stephen was aware that the suit was in the Civil Court and not in the Mayor's Court, but he falls back into the old error (I, 118) when he speaks of the suits going on in the Mayor's Court from 1772-74. It almost appears from the tone of Farrer's remarks, (I, 94) that Farrer was, in 1788, under the same mistake.

I must now say a few more words about my second point, *viz.*, that there was no attempt at a prosecution before May, 1775. We have seen that no such attempt was even alleged by Mohan Prasad or Sir E. Impey. The resource of most writers has been the supposed case in the Mayor's Court, but as it has been successfully shown, 1st that there could be no criminal case in that court; and 2nd, that there was not even a civil suit there, a new point has been raised, *viz.*, the evidence of Mr. Farrer. This evidence I understand Sir J. Stephen to charge me with knowingly passing over. (I, 94). I do not think that the passage was overlooked by me in 1878, for I find a reference to it in my note-book. My view, if I remember rightly, was, that Farrer's statement was worth nothing. It was made 13 or 14 years later about a conversation which he had with Mr. Driver in Nov. 1774. Farrer said that Driver, the attorney of Ganga Vihara, told him that he had advised his client to take criminal proceedings, that Mohan Prasad had agreed, and that he, Driver, had therefore applied for papers in March 1774. The story therefore depends not only upon Farrer's power of recollection, but also on the veracity and memory of Driver. Farrer speaking in 1788, may have mistaken or have forgotten what Driver told him in Nov. 1774, and Driver may then have forgotten what took place in the previous March. That he did forget or misstate the facts is proved by the contents of the petition of March 25th, 1774, which recites that Driver wanted the bonds for prosecuting *civil suits*. There is no clear order refusing him the original, and I do not understand why he should have been offered copies when Mohan Prasad had them already. Moreover, Mohan Prasad was not Driver's client. The evidence, then, is a hearsay statement made by A of

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\* Sir J. S. says that Farrer arrived in India two or three days before the Judges. (I, 92) I suppose he has authority for the statement. I however cannot reconcile it with that; (I, 31) to the effect that Col. Monson took him out as his secretary, for the Judges and Members of Council arrived at Calcutta together. Possibly Farrer was part of the legal freight of the *Anson* and did not come in Monson's ship. He is not mentioned by Macrabria as a fellow-passenger, and it is not likely that he was at the second mess.

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what B told him 14 years earlier about the intentions of C, or rather of C's agent D, and it is in opposition to contemporaneous writing. Surely if ever there was a case in which written testimony should be preferred to slippery memory, this is one. It is to me quite inconceivable that if Mohan Prasad had really attempted a criminal prosecution before and had taken any steps for the purpose, he should have failed to mention the facts when he was examined on this point at the trial. (1043) Granted that he was a bitter enemy of Nanda Kumar, still he apparently could not prosecute of himself. He needed a power from Ganga Vishnu, and it is very unlikely that Ganga Vishnu of his own free will would give him a power for such a purpose. There is an *a priori* argument against Mohan Prasad's voluntarily coming forward as prosecutor, which is to my mind of considerable weight. This is the fact that he signed the petition of March 1765 for the pardon of Radha Charan Maitra. This petition is printed by Verelst App. 1770) and is strongly worded. (\*) It recites the general consternation, astonishment, and even panic with which the natives of all parts, under the domination of the English, are seized by this example of Radha Charan Maitri; that they find themselves subject to pains and penalties of laws to which they are altogether strangers, etc. Is it likely that after signing such a petition, and therefore well knowing what the punishment for forgery was by the English laws, he would voluntarily prosecute an aged Brahman (†) under that law, and a man, too, with whom he had formerly been on terms of strict friendship, and who, he said, had loved him as his son? (1047.)

No one can tell when the thought of prosecuting Nanda Kumar first occurred to Hastings or to Mohan Prasad. It is quite possible that it arose almost as soon as the Judges arrived in India. If Ram Nath is to be believed, which of course is very doubtful, Mohan Prasad was talking of prosecuting Nanda Kumar in Assin (*i.e.*, September-October) 1774. Nanda Kumar and Hastings had always been antagonistic

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\* The petition is also published by Mr. Long (Selections, 430) and the names of the 95 signatories are given. Mohan Prasad's name is *third* on the list, the first two being Hazari Mal and Kashi Nath. Rajah Naba Krishna's (then only a munshi) appears also, which may account for his unwillingness to have Nanda Kumar hanged. Nanda Kumar's name does not appear. It was hardly possible that he should have signed, for he was in Murshidabad when the sentence was passed, in Feb. 1765, and when he was sent down next month to Calcutta, he was under a guard of sepoys! The story that his name was on the petition appears to have been started by Price. (Letter to Burke, 73.)

† Radha Charan was only a Kayasth. The petition states that he was recommended to mercy by the jury.

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to one another, and the feeling of mutual aversion must have been embittered by the failure of the prosecution of Mahomed Reza Khan and the downfall of Nanda Kumar's expectations.

Sir J. Stephen speaks of Nanda Kumar's deadly hated, for Hastings, and says the feeling *may have been* returned by Hastings, as if the point was a doubtful one. Perhaps his doubt will be removed if he refers to a letter written by Hastings in 1788, that is, thirteen years after Nanda Kumar's death, and when the hate might be supposed to have been in some measure appeased. Then Hastings says "I was never the personal enemy of any man but Nuncomar, whom from my soul I detested even when I was compelled to countenance him." (Gleig, III, 338.) No doubt the arrival of the Judges and the Councillors, and the hopes and fears incited by the new order of things, blew the smouldering animosity into a flame. A week after the arrival of the Members of Council, and consequently about the 25th October 1774, Nanda Kumar asked Hastings to introduce him to the new powers. This request must have been gall and wormwood to Hastings, especially if it was made just after the meeting of Council on 25th October, when, as we know, the quarrel about the Rohilla war began. So Hastings tauntingly replied: "You have contracted a friendship with my enemy, procure an interview by his means." And then he added the menace "I shall pursue what is for my own advantage, but in this your hurt is included; look to it." The enemy here meant was Mr. Joseph Fowke, who was in India when the *Anson* and *Ashburnham* arrived, and who went down the river to Kedgeri to meet General Clavering.

On 25th March 1775, Hastings wrote to his agents, Graham and Maclean: "Goring is employed as their (the Members of Council) agent with Mahomed Reza Khan, and Fowke with Nanda Kumar. I believe you both knew before you left Calcutta that it was reported, and currently believed, that he \* had been many days in close counsel with Nanda Kumar before the arrival of the transports, and carried down with him a long list of malversations to present to new members. I suppose it is the same with that which Nanda Kumar himself has since presented."

After Nanda Kumar's request for an introduction to the councillors, the quarrel between him and Hastings went on increasing,

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\* Gleig (I, 516) 'It is printed "I" but it is clear that Fowke is meant. Francis also refers to the supposed compact between Nanda Kumar and Fowke. He says (II.49) that he suspects Joseph Fowke had laid a plan with Nuncomar to take possession of them as soon as they arrived, and through them govern the country. Price too speaks of Clavering's being visited as soon as he arrived in the river, by an old and silver-headed sage of his former acquaintance. (Fowke.)

and on 11th January 1775, Hastings turned him out of his house and forbade him ever to come again. Sir J. Stephen seems to doubt that these things occurred before Nanda Kumar brought his accusations, for he says (I, 211 note) "By Nanda Kumar's own account this preceded, and was the cause of, Nanda Kumar's accusation of Hastings." But Hastings himself admitted in evidence that he had dismissed Nanda Kumar from his house, and of course this must have been before the accusation, for Nuncomar would certainly never have ventured near Hastings' house after the 11th March.

But besides this, there is a letter of Hastings dated 25th February 1775, and consequently more than a fortnight before Nanda Kumar stood forth as his accuser, which shows how bitterly Hastings felt towards him. "Nanda Kumar, whom I have thus long protected and supported; whom, against my nature, I have cherished like a serpent, till he has stung me, is now in close connexion with my adversaries, and the prime mover of all their intrigues, and he will sting them too, or I am mistaken, before he quits them. I have expelled him from my gates, and while I live will never re-admit him; yet I will support his son, and the arrangements formed at the city, (Murshidabad) till the Company's orders empower us to dissolve them. I hear that this also is intended by the majority, and at his instigation."

The fact is, as Nanda Kumar himself said, that he was driven to accuse Hastings by seeing that the latter had become his enemy, and was consorting with Mohan Prasad and Jagat Chand. Jagat Chand was Nanda Kumar's son-in-law, but was evidently bitterly hostile to him. His intimacy with Mohan Prasad may be inferred from Nanda Kumar's letter, and also from a passage in Mr. Durham's evidence, (1039,) where he says that he showed the forged bond to Manahar Mitra in the presence of Jagat Chand and Mohan Prasad. His hostility to Nanda Kumar is proved by Nanda Kumar's letter, and may also be inferred from a letter of Hastings written so far back as April 1772. Jagat Chand was Naib to Gour Das, or at least to the Nizamat, and Hastings writes that Nanda Kumar's son and son-in-law (Gour Das and Jagat Chand) were more ready to counteract each others designs than to join in a plot to hurt the Government. (Gleig I, 332).

Sir J. Stephen says that prosecutions such as that of Nanda Kumar for forgery grew from deep roots. No doubt, but the roots were in this case as deep as Tartarus. The enmity between Nanda Kumar and Hastings began in 1758, and Hastings writing in 1773, (Gleig I, 270) says that when he was in Bengal before, *i. e.*, up to the end of 1764, he rejected every offer of reconciliation with him. And he adds—"I still

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dislike him, although I countenance and employ him." Again, in March 1774, he writes of Nanda Kumar's crooked politics, and of his being at a loss to discover the secret springs which govern his mysterious conduct. Accusations such as Nanda Kumar brought against Hastings also grow from deep roots, especially if we hold with Sir J. Stephen that they were based on fraud and forgery. If for instance Mami Begam's letter was not genuine (I myself have no doubt that it was genuine) time must have been required for forging her seal, &c., But there was nothing either in Nanda Kumar's charges, or in the forgery prosecution, which required more than the preparation of one or two months. If Mohan Prasad was having interviews with Hastings in January or February 1775, he had plenty of time for arranging with him to bring the charge in May. I do not dispute that Mohan Prasad and Hastings concocted the charge, or at least talked about it months before it was brought. All I contend is, that there was no attempt at a prosecution in March 1774, nor any attempt, in the sense of an overt act, till April or May 1775. It is not at all necessary to my case to suppose that the idea of prosecuting did not occur to Hastings till March 1775. It would, of course, take some time for Mohan Prasad to suborn witnesses, but I should think that a month or a month and a half would suffice for this. After all he got very few, and the case, as Sir J. Stephen admits, was badly prepared. This points to a hasty prosecution got up after Nanda Kumar had brought his charges, and after it did not seem likely that the conspiracy case would be successful or would lead to a sufficiently severe sentence. One witness for the defence, Manahar Mitra (1035) deposed, that three days before Nanda Kumar was committed, and consequently on May 3rd, 1775, Mohan Prasad offered him Rs. 400 or Rs. 500 if he would say that the jewels bond was in his hand-writing. This witness was a man of some position, for he was a Government officer, and his statement about Mohan Prasad's showing him the bond was confirmed by Mr. Duham. (1039) Mohan Prasad also admitted (1048) that he had told Manahar that if he would bring the man who wrote the bond he would give him money.

*(To be continued.)*

II. BEVERIDGE.

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On reading again Burke's speech, I perceive that the words "his ancient rival for power" refers to Mahomed Reza and not to Hastings.

II. B.

## Appendix A.

### *Errors and inaccuracies noted in "Story of Nancomar" and not mentioned in my text or notes.*

1. I, 10. "Mir Jafar was a miserable creature." I cannot think this a fair description. Verelst (p. 66, note) says that he was much beloved by his master Aliverdi Khan as a brave commander, but that he wanted industry in the administration of civil government.
2. I, 11. The diwani was granted to the Company, "represented by Lord Clive, who had just arrived from England for the second time." This was Clive's, *third* visit, and he had landed at Calcutta more than three months before the grant of the diwani.
3. Idem. Speaking of the seven years following the grant of the diwani (1765-72) Sir J. S. says "some feeble efforts were made in 1769 to keep a watch upon, if not to control, their proceedings (the Naib Dewans) by the appointment of supervisors." He is apparently not aware that the supervisors became collectors in fact, though not in name, in 1770, and that, according to Hastings, they were the sovereigns of the country. (Gleig I, 234 and 268 Also Mill, III, 523, note.)
4. I, 22. I find no ground for the insinuation here made that Burke attacked the character of Hastings' mother. Francis heard in India that Hastings was a natural son, and Sir J. S. assumes first that Francis may have repeated this to Burke; and secondly, that Burke referred to it in his speech. In fact, Burke's "mean whose origin was low, obscure and vulgar, and bred in vulgar and ignominious" is quite more in the Macaulay wrote, 792, the Hastings learnt his letters on the same bench with the sons of the peasantry and that he was dressed like them.
5. I, 23. "In 1764 Hastings returned to England." Gleig says (I, 132) that Hastings returned with Vansittart in 1764, but this is incorrect. Hastings' name appears as present at a consultation, in Calcutta on December 20th 1764, and a consultation of the 6th. Idem records that Vansittart had left for England. I believe Hastings went home with his friends, the Hancocks early in 1765.
6. I, 24. For errors concerning Baron Imhoff, see App. B.
7. Idem. Hastings' marriage took place August 1st, 1777, and not as here stated, in 1776.
8. Idem. "Hastings' stay at Madras was short and uneventful. He left Madras towards the end of the year 1771." Hastings was over two years in Madras, and was there long enough to become acquainted with such congenial spirits as Loughlin Maclean, Macpherson and the Nawab of Arcot. He was also able to make some addition to his fortune. (Gleig, I, 236) The translator of the *Saur* says, that Hastings paid off his debt to Janwar Petrase at Madras. He did not leave till February 2nd, 1772, (Gleig I, 173.) Sir J. S. has followed an inaccurate statement in Gleig's text (I, 209), and has not noticed that Gleig is contradicted by Hastings' letters. The much-abused Macaulay was more exact. He writes, "Early in 1772 Hastings quitted Fort St. George for his new post."
9. I, 28. Note. The contrast between Francis and Hastings' here quoted is not, as stated, by Mr. Parkes, but by Mr. Wade.
10. I, 29. "If Francis was not Junius, his public life may be said to have begun when he landed at Calcutta; for up to that time, he had had no avowed occupation, except that of holding a clerkship at the War Office." In face of this utterance, it was hardly necessary for Sir J. S. to tell us that he had not studied the Junius question! He is evidently unaware that

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Francis was Secretary to Gen. Pligh on the expedition against Cherbourg, and that he was for nearly a year at Lisbon as Secretary to Lord Kinnoul.

11. I, 30. "Clavering was rash and violent to the last degree, and extremely pugnacious. Before leaving England, he wanted to fight the Duke of Richmond." Now it is true that Clavering wanted to fight the Duke, but Sir J. S. should have told the whole story. The Duke was very vehement "but the newspapers often attributed to him more than he said. Some reflections on General Clavering's character, supposed to have been delivered by the Duke, produced a challenge from the General. The challenge produced a disavowal of the words." In a note (*idem*) Sir J. S. refers to a curious history of Clavering's refusing to fight a certain resident at Serampore. The person in question was a Count Donop, and he was at Chandernagore not at Serampore. Clavering declined a visit from him on the ground that he had known about him when he was at Hesse Cassel, and that he considered that he had acted an ungentlemanly part in accepting an unauthorized commission to make inquiries at Hamburg—in fact that he had been a spy. Donop wanted to fight Clavering for not receiving his visit, &c., and M. Chevalier tried to make out that Donop had done nothing dishonourable in Europe, but Hastings and the rest of the Council quite approved of Clavering's conduct in the matter.

12. I, 31. "Of Monson there is still less to be said," *i.e.*, than of Clavering. Col. Monson was at least a brave soldier. He commanded at the siege of Pondicherry in 1763, and led the grenadiers when they successfully carried the bound hedge. He was wounded by a discharge of langram, langtel (?) a piece of iron breaking both the bone of his leg. It was this wound which compelled him to make over the command to Col. Coote.

13. I, 32. Sir J. S. misquotes *passim* the title of Dr. Buxted's delightful volume, "Echoes from Old Calcutta," and he is wrong about there being a mistake in Hickey's anecdote. Whatever it is worth, it is clear that Clive's remark (supposing him to have made it) was about Hastings. Clive had, on the whole, a poor opinion of Hastings, and I have never heard that Barwell had a reputation for seducing the wives of his friends. Hickey's comment clearly refers to Hastings' marriage.

14. I, 38. Nanda Kumar was "appointed by the Company to be Collector, in the place of Hastings, of Bardwan, Nadiya and Hugh." Nanda Kumar was appointed by the Committee and not in place of Hastings, but before the latter had been offered the Residency. Hastings' grievance was that Nanda Kumar was allowed to collect the old balances. He got a commission of 2½ per cent. I believe, on the collections and hence felt injured.

15. *Idem*. "In 1765 Nuncomar obtained the place of Naib Subah or deputy Nabob of Bengal under Najm ul Daula, who was appointed titular Nabob by the Company after Mir Cossim's expulsion." Here Sir James Stephen confounds Najm-ad-Daula with his father Mir Jafar. Mir Jafar was made Nabob on Mir Qasim's expulsion and remained so till his death in February 1765. Nanda Kumar was his diwan. When Najm-ad-Daula succeeded, he appointed Mahomed Reza, Naib Subah. Afterwards he tried to get Clive to appoint Nanda Kumar, but Clive would not. In the Board's proceedings for June 1st 1765, there is a letter from Najm-ad-Daula complaining that he has been obliged to make Mahomed Reza, Naib, and requesting that he may be allowed to keep Nanda Kumar.

16. *Idem*. Note 2, perhaps by a printer's error, refers to a correspondence in 1758 as concerning an appointment in 1765.

17. I, 40. "Mahomed Reza Khan was acquitted and the office he had held was abolished. Nanda Kumar was, however, rewarded for the services he had rendered, by the appointment of his son Rajah Goordass to the office of Diwar to the household." There is an anachronism here. Gour Das got his appointment in July 1772, and Mahomed Reza was not acquitted till 1774.

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18. Idem, note. Najm-ad-Daula did not grant the Nizamat to the Company as here stated. The Nizamat was not interfered with till Hastings' reforms in 1772 when the Company stood forth as Diwan.

19. I, 42. In what sense was Tipu Saheb an adventurer?

20. Idem. "Of all the provinces of the Empire none was so degraded as Bengal, and till he was nearly 60 years old, Nuncomar lived in the worst and most degraded part of that unhappy province." Sir James Stephen's climaxes are not exactly Macaulay's! What was this worst and most degraded part of Bengal? Was it Murshidabad, Hugli, or Calcutta? In a note on the preceding page (39) there is a curiously perverse remark on Macaulay's description of Bengalis in general and of Nanda Kumar in particular. ("What the Italian is, etc.") Sir James Stephen observes that Macaulay having elsewhere remarked that Bengalis are feeble even to effeminacy, "Nuncomar, therefore, ought to have been hardly able to stand or even sit up," and he seriously sets himself to prove that Nanda Kumar was strong, tall, etc. This is not even "an affectation of smartness" (Stephen I, 85.) It is hebetude pure and simple, Macaulay in these climaxes referring solely to moral character.

21. I, 44. Macaulay has a paragraph about the disastrous effects of the Councillors' reforms on the security of property, etc. Sir James Stephen says that he does not know to what Macaulay refers. Macaulay's remarks, however, are merely a paraphrase of a letter of Hastings (Gleig, II, 29) in which he says that the whole province is, even to the boundaries of Calcutta, a prey to dacoits. I do not consider the authority a good one, but possibly Sir James Stephen will do so.

22. I, 49. Sir James Stephen says that Hastings introduced Nanda Kumar to the Councilors through Elliot. Elliot however swore (1219) that he had been deceived, and that Hastings told him that he had not desired him to introduce Nanda Kumar to Claveling.

23. I, 54, note. I do not think the explanation here given by Sir James Stephen correct. He says that Nanda Kumar made a large supplement to the charges he had circulated before he came to the Council at all. If this means that he circulated charges before 11th March, the statement, I think, is incorrect. Hastings did indeed say that he had seen such a paper but there was no evidence that Nanda Kumar had circulated it. I confess I do not understand what Sir James Stephen alludes to when he speaks of "the paper so referred to." I do not think that any paper produced by Hastings was entered on the Consultations. What seems to me the true explanation is, that there were two letters in the envelope which Nanda Kumar gave to Francis. One was in English and was read in Council on the 11th, and the other in Persian and was put into the hands of the translator. It was at first supposed to be merely the original of the English letter, but I believe that it was more, and that this accounts for the paper on the Consultations of 11, 13th (I am not sure of the date) being tridier than that of the 11th.

24. I, 61, note. Sir James Stephen corrects Thurlow for speaking of the law officers of the Company. Would he be surprised to hear that the Company had two standing counsel and an attorney? (See extract of letter of 25th February 1775, from Government to the Directors, quoted by Price, and also letter of 17th January 1775, Bengal App. 536.) See also Howell (1105) where the fact that standing-counsel existed, was made a reason by the judges for refusing to receive a letter from the Council. According to Sir James Stephen there was no advocate general till 1779 when Sir J. Day was appointed, (Stephen, II, 157.) His predecessor may not have borne the title of Advocate-General, but in a letter of November 1776 (Gleig II, 116) Hastings speaks of the Company's advocate applying for a rule to prevent revenue-debtors from eluding the authority of Government by collusive suits in the Supreme Court.



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25. I, 75. Sir James Stephen has here fallen into the egregious error of thinking that Hastings' letter of March 27th 1775, was Maclean's authority for tendering Hastings' resignation. Maclean got his instructions verbally. See Gleig II, 88, and also the Court of Directors' letter of December 23rd 1778.

26. I, 102, note. Sir James Stephen blames the Councillors for writing that Mr. Barwell declined prosecuting, and says that he was bound over to prosecute. It would have been well if before contradicting those who were likely to know the facts, Sir James Stephen had referred to the report of the trial, and especially to Barwell's own words. Hastings and Vansittart only were bound over to prosecute. (1093) Barwell says, (11204) "I neither asked bail nor was bound over to prosecute." No doubt he did prosecute eventually, but the fact remains that he was not bound over.

27. I, 103. Sir James Stephen says that the statement of the Councillors that Nanda Kumar did not drink water for eighty-six hours is absolutely denied by the jailer, Yeandle. He must have unusual ideas of a contradiction. Yeandle's affidavit is given in Impey's Memoirs, and according to it, all he saw was that Nanda Kumar's servants took water to him. He does not say that he saw him drink, and it is possible that the water was for ablution.

28. II, 26. Col Fullarton quoted a Farman of Shah Alam of 1764. Sir James Stephen appears to doubt its existence and says—"This is not in Aitcheson's Treaties." It would be extraordinary if it were not there, for it is given at full length by Verelst and Bolts and is well known. Its date is 29th December 1764. In fact, however, it is in Aitcheson, though not in the first volume, beyond which presumably Sir James Stephen did not prosecute his researches. He will find it in Aitcheson's second volume, p. 6, being placed there, because it primarily relates to Ghazipur in the N.-W. P. and not to Bengal. It is also to be found in vol. vi, p. 8 of the revised edition of the Treaties by Talbot.

29. I, 55. "Touchet, afterwards the leader of the agitation against the Supreme Court, sat on the jury." Sir James Stephen goes on to say that this is a point of the first importance. Perhaps it might be so, if it were correct but it seems to me that Sir James Stephen, like myself on a former occasion, has been misled by Impey. The jurymen was Samuel Touchet, and the petitioner to the House of Commons was John Touchet, his fellow-petitioner being John Irving.

30. II, 211 and 253. "Naylor, the attorney for the Zemindar." All the authorities speak of him as the Company's attorney, and he was so in fact though he said that he also looked upon the Rajah of Kishna as his client. Impey flung him into the common goal at Calcutta and kept him there for more than a fortnight. He had then just lost his wife, and thus, with the confinement, probably hastened his death, which occurred in the following August. Impey had the hardihood to write of him as "my poor Naylor" and to lament his death!

31. II, 251, note. "The word 'algnazil' is, of course, used to give the bailiffs of the Supreme Court a kind of flavour of the inquisition." Literature is not Sir J. Stephen's strong point: Macaulay found his algnazils in Gil Blas.

32. II, 256. For note on the "Lucknow affidavits," see Appendix C.

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### Appendix B.

*Baron Imhoff.*

As Sir James Stephen has tried to whitewash Impey, and Sir Louis Jackson thinks that he has succeeded, I feel emboldened to try my hand

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at whitewashing Baron Imhoff. I really think that he is the more promising subject of the two. The damaged surface is not so extensive, and the coating of *chunam* is more likely to be weatherproof. I do not pretend that I can show him to have been a good man, but I think I can undertake to prove that he was not quite so bad as he has been represented.

Sir James Stephen says (I, 24) "Hastings" connection with her (Mrs. Imhoff) is not creditable to his memory. He seems to have bought her from her husband. This man had the meanness to live with her first at Madras and afterwards at Calcutta, whilst proceedings for a divorce were going on in the German Courts. When the divorce was obtained, Hastings married Mrs. Imhoff and sent Imhoff back to Germany with £ 10,000 as the price of his infamy."

I believe that there is no authority whatever for the statement that Imhoff received £ 10,000 from Hastings. Gleig does not say so, and Sir James does not refer to any other source of information. Woodman, the brother-in-law of Hastings, writes on 10th December 1773, that he had paid Imhoff part of the £ 500 for which Hastings had drawn upon him, and, that he would pay the remainder within the month; and that the other £ 500 would be paid when it is due. But these payments seem to have been partly for work done as a portrait painter, for Imhoff took home a portrait of Hastings and gave it to his sister (Mrs. Woodman).

Nor is it the case that Imhoff lived with his wife till the divorce was obtained. He came out to Madras to earn his bread honestly, and he stayed there as long as he could get work. He then went on to Calcutta in the latter part of 1770, and meanwhile his wife stayed behind and lived in Madras with Hastings. In October 1771 she came on to Calcutta, but probably this was by an arrangement with Hastings, for it is likely that he knew then of his appointment to Bengal. Imhoff did apparently live with his wife in Calcutta for some time, but he cannot have been with her very long, for he was in England in December 1773, and next month he went over to Germany.

I am not aware that he ever came back to India, and so it is possible that he left his wife and took steps to obtain a divorce as soon as he was convinced of her infidelity.

I think that it might have occurred to a lawyer like Sir James Stephen, that even a German Prince was not likely to grant a divorce unless Imhoff went home and asked for it. According to Francis, one Johnson negotiated the divorce, and as a reward for this his brother got an army contract. It is a fact that one Francis Maitland Johnson got a contract in 1777 for supplying bullocks to the army, and this was one of the charges in Hastings' impeachment.

According to the German version of the story, Imhoff was not at first willing to separate from his wife, and he did not return to Germany a rich man. He seems to have married again in Germany, and his sister-in-law, a lady of Scotch extraction, was the famous Frau von Stein of Goethe's correspondence.

In the same page (I, 24) Sir James Stephen says, with his usual inaccuracy about Indian matters, that Hastings married Mrs. Imhoff in 1776. The marriage really took place on 1st August 1777. A recollection of Macaulay's essay, and of the date of General Clavering's death, might have saved him from this blunder.

Here I may note that Mrs. Imhoff appears to have been of French

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\* Macaulay's statement that Imhoff carried home with him the means of buying an estate in Saxony comes from the same note by the translator of the *Sair*, to which he was indebted for the remark about Mrs. Hastings' birth-place. (*Sair*, vol. 2, 476, note.)

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extraction, for her maiden name seems to have been Marian Apollonia Chapusetin. Francis calls her Madame Chapusetin, and I gather from two letters of Hastings. (Gleig, vol. 3, pp. 439-40) that Chapusetin \* was the name of a nephew of Mrs. Hastings for whom a Colonel Toote got a cadetship of cavalry. From a letter at p. 387 of the same volume, we learn that Mrs. Hastings was visited in 1803 by her mother: "She leaves me to day, writes Hastings, with her venerable mother, who purposes, as soon as she has got passports, and a conveyance, to return to her own very distant home. This will be to both a most afflicting period." The words "very distant home" are some confirmation of the Archangel story. In the same letter (p. 388) Hastings refers to his and Mrs. Hastings' going up to town to get passports for Madame Chapusetin, evidently meaning thereby Mrs. Hastings' mother. The fact of Mrs. Hastings' name being Marian Apollonia appears from a deed of sale dated 10th May 1785 and preserved in the Hastings M.S. It is a conveyance, in which Mrs. Hastings took part, of 56 bighas of land at Alipore to a Mr. H. G. Honeycomb for Sikka Rs. 7,500.

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### Appendix C.

#### *Note on the "Lucknow Affidavits."*

It appears from Sir Enjah Impey's own account of the matter (Stephen, II, 261-2) that his chief motive for going to Lucknow was to urge Middleton, the Resident "to see the treaty of Chunar carried into execution." Hastings, it seems, was apprehensive that the madness of Middleton's temper would prevent him from putting sufficient pressure on the Nawab to compel him to ill-treat his mother and grandmother! How little ground there was for this apprehension, or how well he was schooled by Impey, is shown by Middleton's letter of January 20th, 1782, to the British officer who had charge of the Begam's servants, and by the still more famous, or infamous, letter written by the Assistant-Resident and which is quoted in Macaulay's essay. I do not think Impey's explanation improves matters. It might conceivably be the business of a Chief Justice to take the affidavits of British officers in Lucknow when they could hardly take them before one another, and there was no other legal authority available; but what had the Chief Justice to do with preaching severity against unhappy women? The task required of them was so odious, that neither Middleton nor the Nawab, neither the Christian nor the Muhammadan liked to undertake it, and so the Chief Justice of the Supreme Court goes post from Chunar to Lucknow "with great expedition, travelling day and night" in order to keep them up to the mark. Sir J. S.'s defence of this episode in Impey's career seems to me lame in the extreme. He says (II, 267) that Impey was "at the very worst a little officious," but this is only another way of putting Macaulay's view that he intruded himself into a business entirely alien from all his official duties—words which are included in a passage described by Sir J. S. as one in which "every word is either incorrect or a proof of ignorance." Impey went to Lucknow a few months after he had become Judge of the Company's Court, and Macaulay is therefore justified in saying (in the passage above referred to) that he had been recently hired. His conclusion seems equally just, that Impey's object in undertaking so long a journey was "that he might give, in an irregular manner, that sanction, which in a regular manner he could not give, to the crimes of those who had recently hired him." We know from Hastings' Narrative (54) that the suggestion of taking affidavits came from Impey.

Sir J. Stephen says (II, 269) that he will shortly notice Macaulay's

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† Probably a misprint for Chapusetin.

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mistakes, but I think he introduces several of his own in the attempt. (1) He says "Of the 43 affidavits (grouped by him as the "Lucknow affidavits") 10 only mention the Begams, and that slightly and by hearsay," and that "the contents of the affidavits strongly corroborate Impey's account of the reason why they were sworn. Their main subject is the affair of Cheyte Singh and the operations against him. The Begams are referred to slightly and incidentally." How does Sir J. S. know that all the affidavits taken by Impey in Lucknow were published by Hastings in the Narrative? It is one of the insurrection in Benares and of the transactions of the Governor-General in that district. It is not a narrative of the proceedings against the Begams or their servants, and it was begun at Chunar, September 1st 1781, that is, some two months before Impey joined Hastings. It is true that the Appendix to the Narrative contains affidavits sworn before Impey in November and December 1781, but no one of them states the place where it was taken, and there is no allusion in the Narrative or Appendix to Impey's visit to Lucknow. It seems to me that the fact of the visit was carefully suppressed.

(2) Sir J. S.'s remark that only ten affidavits mention the Begams, is altogether misleading. He says that there are 43 in all (I count only 42 sworn before Impey), and appears to wish his readers to infer that only some fourth part therefore of the "Lucknow affidavits" mentions the Begams. He has, however, omitted to notice, or at least to tell us, that more than half of the affidavits which he has included under the title of "Lucknow affidavits" are not Lucknow affidavits at all. They are affidavits about affairs in Benares, &c., and must have been taken by Impey at Benares, Chunar and Buxir. Their dates show that they were not taken at Lucknow, for Impey was there only three days, as Sir J. S., quoting Impey, tells us (II, 262.) The 26th and 27th November must have been two of these three days, for on them Middleton, Hannay and other officers stationed at Lucknow or in Oude, made their affidavits. It was also stated by Impey in his evidence on Hastings' trial, that he arrived at Lucknow on 25th November. He left it on the 29th idem, so that, he was at Lucknow three or four days. It follows that the affidavits made on Nov. 12th and in December, cannot have been taken by Impey during his three days' visit to Lucknow, and this is borne out by a consideration of who the deponents were. The old Ram Golab Koer, the widow of Balwant Singh, certainly did not go to Lucknow to make her affidavit, nor is it likely that Blair would leave his command at Chunar, nor Eaton his at Bazar, to go and depose at Lucknow about matters which had nothing to do with Oude. This is the less likely because their stations were on Sir Elphinstone's route to and from Lucknow.

(3) The total number of affidavits published in Hastings' Appendix as sworn before Impey is 36 (excluding six by interpreters.) Of these, 17 were sworn on the 26th and 27th Nov. Five of the 17 were by British officers in the service of the Vizier, and I conclude from this and from their dates that they were taken at Lucknow. Of the 17, 11 mention the Begams (Sir J. S. erroneously says 10) and their servants, and in several instances as if it were a main object to inculpate them. This is the case with the affidavits of the English officers which were, I suppose, the most important, and which (as I have already noted) could hardly have been taken except by some outside English official. The statements concerning the Begams are certainly, for the most part, hearsay, but this does not appear to have made them unsatisfactory to Hastings, who writes (I. c. 54) that he has "reason to be satisfied with the weight of the evidence he has obtained." The 17 affidavits published by Hastings, of which 5 are by Englishmen, cannot be the "great multitude" to which Impey referred in his evidence (Stephen, II, 262.) Ten natives would not make a crowd, and there were but ten native deponents. (One made three depositions.) I therefore

conclude that Impey took in Lucknow, many affidavits which are not in the Appendix. This view is supported by Mr. Impey's "Memoirs" where mention is made of an affidavit by a Captain Wade which is not given by Hastings.

(4) Sir J. S. says that Macaulay "substituted a false premiss for one which was half true, in order to suggest a conclusion wholly false, namely, that Impey was unable to read the affidavits." This is strong language and I do not believe it justifiable. The only evidence of falsity given by Sir J. Stephen is, that Macfarlane states that Impey knew Persian, but Sir James should know that a man may have a good knowledge of Persian and yet not be able to read the written character. Mountstuart Elphinstone knew Persian but could not read the written character. (History of India, 479.) I have met with no evidence that Impey was able to read a Persian M.S., and it is highly improbable that he could do so. Macaulay's remark that Impey could not read the affidavits may thus be perfectly justifiable.

(5) Another line of defence taken by Sir J. S. is, that there was no necessity for Impey's reading the affidavits or knowing anything about them. This is, I think, a singular defence. Granting that a Commissioner need not know anything about the contents of an affidavit, that he need not inquire if the deponent understands it or the language in which it is written, why did Impey travel to Lucknow 'to do clerks' work? If Macdilton or Hannay could have done it as well or indeed better, for they had local knowledge, what was the reason for the appearance of the Chief Justice on the scene as a Commissioner? Sir J. S.'s remark that the Chief Justice's attestation did not make the affidavits legally any better, smacks of the mere practising lawyer, a character for which Lord Macaulay once said that he had a profound contempt. Who thought of legality in the matter? Hastings was not seeking for legality; he wanted a screen for his acts, and he found it in the Chief Justice whom he had lately hired for £5,000 a year.

(6) Macaulay says that Impey acted altogether out of his jurisdiction. Sir J. S. says, this is "not quite correct." Does he mean that Impey had jurisdiction?

(7) Impey did not himself always hold the view contended for by Sir J. S. that the taking of an affidavit was an affair of no importance. In the decision on the claim of Radha Charan to the privileges of an ambassador, after saying that Radha Charan's affidavit was scandalous and flagitious, he added (1129). "If I again see an affidavit of this nature, sworn by a native, we will inquire who drew the affidavit, and the Court will animadvert most severely upon him: it is not to be endured, that the consciences of the natives swearing in a foreign language, should be thus ensnared." The affidavit in question was that sworn before Mr. Justice Hyde (1108) and which is shown by another (1142) sworn before Impey, to have been drawn by Farrer and Jarret. Impey's language implies that he considered it his duty to comprehend affidavits.

There is a palpable inconsistency in Sir J. S. line of argument. He defends Impey on the ground of his willingness to take responsibility, and to help the Governor-General in a difficulty, but if the taking of affidavits was a mere form, and Impey did nothing which a clerk could not do, where is his merit? Admittedly he went out of his way—he was "officious," to use Sir J. S.'s own word, and the only way in which he can be justified is by showing that he did something really important. He cannot be vindicated for going to Lucknow on the ground that he was actuated by a courageous public spirit to take responsibility and to help the Governor-General, and also on the ground that what he did was of no consequence.

## ART. VI.—EGYPT:

### IS IT WORTH ANNEXATION? WOULD IT ADD TO THE STRENGTH OF THE ENGLISH EMPIRE?

**I**N the year 1858 I visited Turkey to observe the mode of administration of subject provinces, and I published the results in volume XLIX, No. 38 of this Review for the year 1853. I again visited a portion of Turkey, both in Asia and Europe, in 1884, and travelled for several weeks in another portion at the commencement of the year, (1885) and also made a careful survey of Egypt from the sea to the first cataract, from Suez and Port Said to Alexandria. I have read a great deal of contemporary literature both in the English and French language on the subject: some of it is entirely worthless: some extremely valuable, yet indicating that the writers had exceedingly small conception of the nature of the problem presented in the administration of a province, a matter so simple to an Anglo-Indian who had been doing nothing else all his life.

I had an interview with the Ex-Khedive Ismail, before I started. His Highness was courteous and communicative, and talked freely in French in the presence of several persons who were present, and followed our conversation. He suddenly asked me whether I knew the Turkish or Persian languages: on my replying in the affirmative with regard to the last, he said in Persian: "In your opinion is there any hope for Turkey?" I replied at once that there was not. After a pause, he asked, whether I considered there was any hope for Egypt. I replied, frankly, that there was great hope: on hearing which he seemed disappointed: and there would have been comfort with the hope, the nice story of Ismail's restoration. I did not think so. It may have been the beginning of the troubles when he was removed, but it would only aggravate them to restore him. His career as a Ruler has ended.

Although my object is to consider whether the annexation of Egypt could pay financially or politically, yet as Egypt is still as a matter of form, part of the Turkish Empire, it is well to consider how it has fared with that Empire since 1852. The Crimean war of 1854-55 saved it from extinction, but the Russo-Turkish war of 1873-79 ended in the material reduction of its territory both in Europe and Asia. Immediately Tunisia had been annexed by France, and the district of the Lebanon placed under an independent autonomy. The result of the war of 1873-79 was the establishment of the independent kingdoms of Rumania and Servia, the annexation by Austria of Bosnia and Herzegovina, the cession of Cyprus to

England, the enlargement of the northern frontier of Greece, the independence of Northern Bulgaria and Montenegro, the autonomy of Southern Bulgaria or Romelia, the annexation of Kars and Batúm by Russia. Then followed the bombardment of Alexandria, and practically the conquest of Egypt by England, eventuating in the shrinking of the Southern frontier of the Turkish Empire to the second cataract.

Nor have the Rulers of the contracted Empire become wiser, but the contrary. Sultans have been deposed by palace intrigues, in which the eunuchs play a chief part, and one Sultan has been murdered. The reigning sovereign feels that any day his lot may be the same, that he may have the choice of the poisoned cup of coffee or the dagger if he ventures to strike out a path of his own. The influence of the Ulems and the Mahometan party is such, that nothing but an entire destruction of their political power would be of any use: *De-lenda est Carthago*. I can remember the same thing happening in the Panjab: there were those who would have maintained a Sikh kingdom. When it fell, it was found how easily the country was governed: the sting was taken out of the insect: the religious establishments, their laws, their prerogatives, and the nuisance arising from them disappeared at once and for all time.

The radical fault of the Turkish system is not so much its wickedness as its inefficiency: to be vigorous it has no other expedient but to be cruel: then comes an outcry: no official is sure of his position, and no one dares to suggest, or cares to carry out, a reform. Each one makes hay while the sun shines. The absolute non-existence of equitable notions aggravates the danger. According to Turkish ideas, the Mahomedans were designed by providence to rule, and the Christian to be squeezed for money, and supply women for the harems. The very existence of a class of eunuchs is an anachronism in Europe and a shame: the fact that slaves are still imported and slavery tolerated, at one puts the Empire out of the category of civilised nations. Notwithstanding that there is more religious tolerance in Turkey, and less Police vexation, than in Austria-Hungary, still there can be no doubt that Turkey does not deserve to exist, and only enjoys a respite till it can be settled who are to succeed to the inheritance.

The indebtedness of the Empire is notorious: a Turkish bond is synonymous with a worthless possession. All the promises, the tanzimat, and the new orders, are mere paper-display, *buid leges prosunt sine moribus*? The palaces which line the Bosphorus, tell of a plundered and ill-used people, without the semblance of decent forms of government; nor out of the existing material could any new system be created. The Turks

are good soldiers, but there are no officers. The subject races are as tractable and peaceful as those in India, but some consistent and intelligent administration, superintended by honest men, is required. If any thing is worse than the Turk pure and simple, it is the Circassian and Tartar who have immigrated from the Russian dominions: if any thing is worse than them, it is the Christian renegade, who has worked his way to power, or the Greek and Armenian adventurers, who find it worth their while to side with their natural enemies.

Let us now consider what hope there is for Egypt, the valley of the Nile as far South of the second cataract, and its appurtenances in the Syrian or Libyan deserts. It was remarked by Sir George Campbell in 1876 in his volume upon Turkey, "We do not want Egypt for our share. We have been forestalled by the bondholders, the country is too deeply pledged to be worth any thing to any body." This is the thesis which we propose to argue and demonstrate. As the bondholders were the creation of the Ex-Khedive Ismail, and the bondholders weigh down the country, it follows that Ismail has been the ruin of Egypt, which he received unburdened from his predecessors.

I was present in Lord Hardinge's camp before Lahore in 1846 when it was determined to annex the Cis and Trans-Bulley States, and again in 1849, when it was determined to annex the remainder of the Panjab. I was cognizant of all the details that preceded and followed that great measure. A lapse of nearly forty years has proved that the men of that time knew what they were about; the result has justified the policy. For twenty years I was more or less mixed up in it, and knew the rocks which we steered clear of, the great dangers which, in the early period, we had looming before us, and the firm and steady policy which carried us through it. Much injustice and hardship to individuals, families, and classes had to be perpetrated or tolerated. Royal families, military classes, a pampered nobility, and a powerful priesthood had to be got rid of: frightful abuses, and intolerable customs had to be wiped out. The older provinces of British India looked on with disapproval, doubtings, and disparagements, rather expecting a failure, and perhaps disappointed at not witnessing one. The circumstances which accompanied the Mutinies and the recapture of Delhi, gave the imprimature of success and approval to the Model Province.

Now, if any body of foreign bondholders who had lent money for the privats wants of the late Rulers, had urged that the State of the Panjáb revenues were hypothecated to all time for the payment; they would have been informed, that there *bonds were waste paper*: they had demanded a high rate of interest with reference to the badness of the security:—capital and



interest were now both gone to the same place as the loans taken up by the confederate States of North America. If any such organ as the *Bosphore*, had had the boldness to appear, the editor would have been sentenced to be kept *sine die* in the police lockup. If any French consul had remonstrated, he would have been chucked into the Sutelj. In ruling conquered provinces there can be no half measures, no signs of weakness, the iron hand must be there, though covered with a velvet glove. Thus there are circumstances upon the very threshold which would render a good administration of Egypt impossible.

Suppose, again, that when we were settled in the Panjáb, the Amir of Afghanistan had put forward rights of a suzerain Amir, and as a representative of Timur and Nadir Shah and Shah Zeman, former sovereigns, who undoubtedly had conquered and occupied the Panjáb, had claimed a large annual tribute, I can imagine the twinkle in John Lawren's eye, while the claim was being made, and the heroic order suggesting that he should come and fetch his tribute, and the moral lesson read to the Amir, that state revenues were only levied from a people for the purpose of a good administration, and that British India paid no tribute to England. One necessary condition precedent of good government in Egypt would be, that the telegraph and postal communications between England and that country should be let be interrupted for one year at the least. The most successful and most daring Indian administrator would fail in any attempt to govern Egypt under its existing circumstances. Let us think out this subject.

If any one wished to build a bridge or a house, or buy a horse or an estate, he would consult a person who had experience in that particular duty. The opinion would hardly be solicited of the Knights Errant who are picked up by chance by the managers of the London daily papers, and sent out as reporters. Mr. Power, who was sent out to the Soudán by the *Times*, may have been a good and gallant fellow, but he was totally unacquainted with the country and the subject matter. The permanent reporter of the *Times* was clearly a malcontent. No issues of the *Bosphore* did such mischief, or were so hostile to the true welfare of England, as the letters of the *Times* correspondent from Egypt in 1883 and 1884. When I reached Cairo last January, I called for the *Bosphore*, and was surprised how tame its abuse seemed after the abuse of the *Times* correspondent, and how really wise and well informed it seemed after the unwisdom and ignorance of the same individual.

My own qualifications for writing are just these: I had about a quarter of a century to take part in the administration of conquered provinces,—and many years in entirely newly conquered provinces, passing through the shifting scenes of war, annexation,

revolt and rebellion, dealings with finance, courts of law, prisons, police, and settlement of land revenue. Having a taste for the thing, I visited Turkey more than once, and Algeria and Russia South of the Caucasus to see how things were managed there, and contributed during the last thirty years, notices of what I saw to the pages of the *Calcutta Review*. I had known Egypt since 1843, when I resided in Cairo a month, in the time of the grand old Pasha, Mehemet Ali, and read through the whole Koran in Arabic. I had kept up my interest in Egypt ever since, having repeatedly passed thought it and read all the books upon it, including the blue books and the reports of Lord Dufferin, Lord Northbrook, and Sir E. Baring. As stated above, in January last, I traversed the whole of Egypt: I was at the first cataract when the news came of the victory of Abuklea, and the troops having reached the Nile south of Metamul: I was at Cairo, when I read in the telegram in Sheppard's hotel of the fall of Khartûm. As may be supposed I heard a great many opinions. Armed with a letter from Lord Granville, I had interviews with Baring, Nubar Pasha Amos, West, and Cruickshank. I looked into the jail in the town, and the great central jail some little way out. I looked into the Courts of Justice and talked with the judges: I saw police courts and schools, and marked the ways of people in the towns and in the villages. I never heard a harsh word spoken, or saw a blow struck, or listened to a bitter cry of anguish, or a groan of an oppressed one. I have lived long enough among orientals not to be taken in by them, and yet not to overlook signs of tyranny. I had plenty of time during my long sojourn in Syria and Palestine to think out the problems and digest my information.

My remarks will group themselves under the following heads,—

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|--|--------------------------------|
| A. The personnel of the administration | F. Education                   |
| B. The Revenue                         | G. The Constitution            |
| C. The Judicial system                 | H. The Financial state         |
| D. The Police and the Jails            | I. Taxation of European Aliens |
| J. The Canals and Roads                |                                |

Egypt is like a palimpsest, the older writing is read through the new. The state of things which we see around us tells the tale of the long miserable centuries of misgovernment, through which the unhappy country must have passed. When people, with imperfect information, speak slightly of the English system of government in British India, and of the French system in Algeria, both of which I have carefully studied on the spot, it would be well for them to reflect upon the state of a people left to the tender mercies of an alien Asiatic Power. Egypt at least had religious liberty; the existence of the Copts with their churches and convents proves that.

Those great abuses, with regard to which there have been so much frothy declamation, the Corvee, or forced labor, the Courbash, or whip, and the corruption of the police and judicial underlings, are by no means the peculiarity of Egypt. Laudable progress has been made in suppressing all these abuses in British India, and in Egypt a great deal has been done to abolish or mitigate them.

Forced labour is necessary to clean the canals upon which the prosperity of the country depends. To the apathy and want of independence of the people must be attributed the use of the whip; there would be no corruption, if there were not those who have an interest to corrupt. I am not singular in my opinion that the people are *not* oppressed; the petty tyrant is generally their one headman, one often of their own family, or neighbours, and not necessarily a paid servant of the State.

A great clamour is raised about the loss of the Equatorial Provinces: I knew Egypt before she had conquered them. Egypt is complete in itself North of the first cataract; if its boundaries are extended as far South as Wadi Halfa or the second cataract, no harm will arise; but any further extension will ever be accompanied by danger and profitless expenditure. It was amazing to hear and read about the Mahdi invading Egypt: the long trench of the Nile presents no facility to the invader, and with all the appliances of modern civilization, we know how difficult we found the route to Dongola. Egypt has often been invaded from the East and the West and the North, but rarely, if ever, from the South. It is to the good fortune of Egypt that it has shaken off the Southern Provinces, and the greatest blessing to England, that Khartum was not relieved. The census of Egypt Proper gives a population of six millions, eight hundred thousand souls, about 201 to the square mile; of these 246,000 are Nomad Beduin of the desert, and 90,000 are domiciled aliens. There are two cities, Cairo and Alexandria, with a population of 375,000 and 213,000 respectively: six towns of second magnitude, 113 market towns, and 3,389 villages. The towns are Tanta, with 60,000 inhabitants, Zagazig with forty thousand, Assiout with twenty-seven thousand eight hundred, Damanhir with twenty-five thousand: Kennek with thirteen thousand. Those who have had to deal with the twenty millions of India and their lordly cities, can smile at a problem of such insignificant proportions. Such a province as Egypt, if adjacent to India as Sindh and British Burma, would be annexed without difficulty and administered with little expense.

The province is very compact and accessible, as it is permeated by the great navigable stream of the Nile. How

different are the circumstances of Syria and Asia Minor! The oases are like insular dependencies of the main province, as the Isle of Sky is of a Scotch county. They are worth £10,000 per annum, but are not readily accessible. The peninsular of Sinai is a dependent province, as Aden is of Bombay. For purposes of administration, Egypt Proper is divided into three great sections, Lower, Middle and Upper Egypt, which again are divided into eight special City Governorships, and fourteen prefectures in Lower Egypt, Behéra, Gizeh, Galiobieh, Charkieh, Menoofieh, and Dakhalieh. In Middle Egypt, Benisouef, the Fayúm and Minieh. In Upper Egypt Assiout, Girzéh, Kennéh, Cosseir and Esneh. These again are subdivided into arrondissements or districts, and these again into communes or cantons, each of which includes several villages. Over each of these subdivisions, great or small, there is an official. In all these details we recognize the well known features which are prominent in any organisation of territorial rule. The first thing that we did when we annexed the Panjáb, was to trace out on a map the boundaries of the divisions, districts, and subdivisions, and count up the towns and villages. The absence of mountains and streams, the total non-existence of a local aristocracy, of castles, of forests, of mines; the gentleness, docility, and industry of the people, habituated by the tradition and practice of centuries to live on the verge of starvation, without manufactures or education, only religious in a very mild form: these are singular phenomena, rendering annexation and administration very easy. Lord Dufferin in his report calls attention to considerable infiltration of hardy foreign races which has been going on from time immemorial, whose descendants are as much Egyptian as the rest of the population, and yet are very different in character. And according to the same authority, (who however could have no information which was not gleaned from others, and as they are not named, we cannot test the value of their evidence) there is a hope for improvement in the inert mass of the Egyptian peasantry. I quote a really beautiful passage, beautiful both in sentiment and expression: I only wish that I could believe in its truth:—

"The metamorphic spirit of the age, as evoked by the "inventions of science, intercourse with European nations, and "other invigorating influences, have already done something "to inspire the Egyptian rustic with the rudiments of self-respect, and a dim conception of hitherto unimagined possibilities. Nor like his own Memnon has he remained irresponsive to the beams of the new dawn. His lips have trembled if they have not articulated, and in many indirect and "half unconscious ways, he has shown himself not only equal "to the discharge of some of these functions, of which none

"but members of the most critical communities were thought capable, but unexpectedly appreciative of his legitimate political interests and moral rights."

It goes without saying that the Egyptians are totally unfit for the higher posts of government, much more so than the people of India, and that they could not be safely employed in the lower positions without close supervision of a higher race. The Turks and Albanians, who were introduced by Mehemet Ali Pasha, were unquestionably of a stronger and nobler race, but totally unskilled in the art of rule, rapacious and unprincipled. The introduction of Europeans was therefore desirable, but not in such large numbers, with such excessive emoluments and insufficient selection. Owing to the jealousy of European nations, many appointments have been most unnecessarily duplicated, and Lord Dufferin admits that the excessive predominance of Europeans was the cause of deep dissatisfaction to the Egyptians. If the country were annexed by England, there would necessarily be an English Civil Service; but if the native government is maintained, it places that Government in a false position to be surrounded entirely by European officials. Long before the rebellion occurred, I had regarded this feature with great dissatisfaction. Lord Dufferin reported that the number ought to be considerably reduced, and, as vacancies occur, gradually withdrawn. One of the first efforts of the Bulgarian nation was to get rid of the Russian officials. The Native officials resemble, in every respect, the Native officials of India; if handled firmly and sympathetically, they will work well. Their number should be reduced, their emoluments increased, provision made for pensions, security given for tenure during good conduct, and penalties enforced for bad conduct. They are now ridiculously numerous, and scandalously ill paid and untrained, with no security of office. What can be expected? Fortunately for the country there exist the same dualism of Christian Copts and Mahometans that exists in India, in the case of Hindu and Mahometans, and which is such an important element in good government. The number of paid officials is said to amount to 21,677, dividing a wage-fund of a million and a quarter sterling. A strong and wise ruler of the John Lawrence type would soon settle this problem, but it is hopeless for an administration consisting of men, nearly all of whom have a harem, and therefore an infinity of hangers on waiting to be provided for, to grapple with and overcome the difficulty. After the battle of Tel-el-Kabir the Khedive issued a laconic order: "The army of Egypt is disbanded." The same kind of order is required with regard to every civil functionary; in fact, this is what happened when we annexed the Panjáb. The village headmen, and village

accountants held fast, but every other functionary, from the highest judge to the humblest messenger was discharged, and a new order of things arose by a fresh enlisting, upon different terms, of a certain number of the same individuals. As the heirs, the spendthrift and ill-used heirs, of an ancient civilization, there is no doubt that, with careful selection, good training, and careful supervision, there will be no occasion for foreigners, except in the highest posts. Everybody is cognisant of the rare efficiency of the native employees in India, but, if left to themselves, they would come to grief.

Next comes the question of the land and the land revenue. It makes the blood of a Collector boil with indignation to read that seventy thousand acres of cultivated land had been taken up for railways and canals, and yet still stood on the books as assessable area. Let us recollect what care is taken on this important subject in India: it is hard to take up the land, but at least pay for it, and reduce the land-revenue. This side glance indicates the utter recklessness and inefficiency of the revenue officials. In the three kinds of land tenure, the experienced Indian Collector recognizes familiar phenomena disguised under new names. The *Wakl* is the abominable revenue free grants, against which I, and the school to which I belonged, waged relentless war for a quarter of a century. The snake is scotched, if not killed. The only right of the State to levy a land-tax is, that the money is required for the services of the State: if, therefore, the land-tax is remitted to the owner, or if the right of levying the land-tax on any area is granted to a priest, or a fiddler, or a courtesan, it is a gross alienation of the revenue of the State, which causes the burden to press heavier on the rest of the community. Such are the *Wakl* lands of Egypt, and the *Inam* and *Jaghir* of India. They ought to be extinguished. In the *Khiraji* land, the Anglo-Indian Collector recognizes the ordinary assessable land. In the *Ashrial*, he recognizes the cases of reduced assessments granted for a life, or lives, which ought gradually to be levelled up to the equitable standard of the whole country. The main hope of a country is a moderate assessment made with the owners, or resident cultivators, for a long term of years. Lord Northbrook records his opinion that the assessment is not excessive in Lower Egypt, though perhaps it may be in Upper Egypt. The panacea for Egypt as also Ireland, would be an assessment made by impartial officers on existing assets for a long period. The assessment of Egypt is unequal in its incidence, and that is a great blot. A considerable reduction of the demand made wisely, would eventuate in a vast increase of the cultivated area; for by increasing the area of cultivation, the resources alike of the people and of the State would be

expanded. There seems to be no limit to the power of extending the irrigation, and a grant of a million this year has been a wise policy. There is a power, though a rude one, of raising water to a higher level, there is an industrious and docile population, and a facility of export of sugar, cotton and grain. The time must come when there will be a market for the cereals, saccharines and fibres of Egypt to the East, for Asia must soon wake up in the general revival of nations: Egypt had corn, when all the world suffered from famine.

No one can go up the Nile without being impressed by the wonderful and weird beauty of the scene: it is not the beauty of the lovely Sub-Himalayan districts, which extend in a long chain of park-like prairies from Sealkot, Hoshiarpur and Ambala to Rohilkand and Gházipur, with their mangoe trees and Mohwa and the snow capped mountains on their flank: it is not the tropical splendour of the districts of South India and Ceylon, with the fan-palm and the date-palm, and the areca palms. The great River Nile, like the Indus in Sindh, flows solemnly, and without affluents on its Northern course, carrying away tons of sand and mould wherewith to create new deltas in the bed of the Mediterranean: the peasant is hard at work with his water wheels and lifting apparatus, so well known in the villages of India: the camel and the donkey are unequally yoked to scrape with a light plough the light soil. Twenty years of peace and good government would produce wonders amidst this light hearted and contented peasantry. There is no occasion for soldiers or cannon to keep this country quiet: a well organized police, and a kind, strong, and intelligent district officer. I gather from some of the reports, that amidst the aboriginal population, the linear descendants of the people of Pharaoh, there are here and there colonies of a superior race, who are however none the less Egyptian because their ancestors, at some remote period, immigrated, bearing their descendants like boulders in an Alpine valley, when the force that brought them has melted away. So is it also in British India, and from this slender material good native officials are fashioned by the plastic hand of a competent Englishman.

I now pass to the judicial system. It is a miserable servitude where the law is uncertain, or the execution of good laws capricious. The state of affairs in Egypt was below contempt. The case is different now. There are two tribunals: the International and the Native: it may be hoped that in course of time the first may disappear. If England were to annex Egypt, as France has Tunisia, it would disappear at once.

Many various nations have acquired vested interests in Egypt which would, under certain circumstances, justify their diplomatic interference in the government of the country. A new and powerful international factor

was introduced into Egypt by the foundation of the mixed tribunals established in 1875 by Ismail Pasha, in substitution for the Consular courts. This, his own creation, went far to destroy him. The tribunals delivered sentences against him which he could not execute. He, on his side, issued a decree in partial repudiation of debts he could not pay in full. Germany, one of the 14 powers whose consular jurisdiction had been transferred, instantly protested. England and France followed the example of Germany, and a storm was raised, which ended in the deposition of the Khedive by the Porte. That Ismail was exiled, and that Tewfik, his son, reigned in his stead, is matter of well-known history; but it is not so well known that a new right of international intervention in Egypt was first claimed and recognized at that time. Every power that possessed extra territorial consular jurisdiction in Egypt before 1875, has now the right to protest and interfere, if the decisions of the mixed tribunals are not respected.

Since then indigenous courts have been established, and in 1883 a new departure was made. I bought this year at Cairo a small volume in the French language, translated from the Arabic, of about five hundred pages. It contained a copy of the Decree constituting the Courts, a Code of positive Civil law; a Code of positive Commercial law; a Code of procedure, Civil and Commercial: a code of positive Criminal law; a code of Criminal procedure. I do not open the question whether these codes are good or not, or whether the Code Napoleon is the best type to follow: it is sufficient to note that intelligible codes exist in the two vernaculars of the country. This, by itself, is an advance of centuries on the former miserable stagnation. Accompanying Mr. West, the procureur, I visited the courts: the drinking of coffee and smoking of pipes was peculiar; the judges were too numerous to be well paid; the abominable red cap with a tassel was a disgrace to every Christian that wore it: otherwise I was satisfied that there was the germ of good things. If capable and honest men are appointed, and the executive is prevented from acts of bribery or intimidation, a good time may be coming.

A good police force has been organised, and for great cities this is easy enough; the difficulty is, as we know full well in India, to make the police sufficiently strong to repress violent crime, and yet sufficiently under control as not to oppress the villagers. That the use of the whip is forbidden is a step in advance, but the effect of centuries of oppression and contempt of justice on one side, and bribery and servility on the other, cannot be effaced in a day. I visited the jails in the city, and accompanied by Dr. Cruickshank, the Inspector of Prisons, I went out to see the new central prison at Helwan. Of course the travelling Member of Parliament, and the newspaper correspondents who had formed their ideas at Pentonville, would be aghast at what they saw. I remembered the temporary buildings which did duty as jails many years in the



Panjâb, and was satisfied that here also there was progress in the right direction.

The subject of canals has been carefully studied : from time immemorial Egypt has depended on them for a timely distribution of water. Many noble works have been constructed by Ismail and his predecessors ; the whole matter has been well considered, and plans made for the future. The river is the great roadway : The Delta is well threaded by railways, and a line runs southward to Assiout, which should be extended to Assouan, and a line run across the desert from Kenneh to Kosseir on the Red Sea.

There are two parallel educational systems in Egypt—European energy and Mahomedan stagnation are typified in each. First, we have the old Arab school, which is attached to the Mosque. Every traveller has seen at the corners of the streets of Oriental towns a room-full of children, squatted on the floor, shouting out at the top of their shrill voices passages from the Koran, or painfully writing Arabic letters on bits of tin, while an old gentleman in flowing robes and a turban, acts pedagogue with a long stick. This is really no education at all. The children learn nothing, the teacher is almost as ignorant as his pupil, and the chief use of the school is as a general nursery where the little ones can be in safety while the parents go out to work (as even the women do now in Egypt). This, unfortunately, is still the only kind of school one finds outside Cairo, Alexandria, and some of the other larger towns. However, little by little, this system is being changed. Government does not maintain these Arab schools. That is done partly by religious endowment, partly by small payments of a piastre (2½d.) a week from such pupils as can pay. But Government has the right of inspection and of recommendation of teachers. A better class of teachers is being trained, and arithmetic is already added to the teaching of reading and writing. Parallel with this old educational system, on which the mass of the people must still depend for some time to come, and which I may call the Arab system, is the new European system of the Government. At present its schools only exist in Alexandria, Cairo, and the large towns. But their influence is being extended in the manner I have above described. These schools are divided thus :—Primary Schools and Government Schools. Some of the primary schools only teach reading, writing and arithmetic, and the Koran, and only differ from the Arab schools in the quality of their teacher. But in Cairo and Alexandria these inferior schools have already been wholly superseded by the better class of schools. The primary schools of the better kind have a fixed programme of teaching, an educational course which extends over four years, and an efficient staff of masters. No distinction is made of religion, race, or class ; all are admitted who like to come. The pupils are taught Arabic and Turkish, one European language, English, French, German, or Italian—at choice, writing in Arabic and European characters, geography, a little history, physics, and drawing. They are either boarders or day-scholars. Those of the boarders who are reported by the authorities of their district as being able to pay, pay £26 a year. Those who can pay partly, do so, those who are poor, pay nothing. Clothing is given to the boarders, as well as food and lodging.

Government, however, claims to control the subsequent career of those among the pupils who pay nothing and who show much promise. They are passed on to the Government schools to be trained for the Government service, and many teachers are thus being trained for the improvement

of the teaching class in the primary schools. Government surveyors, engineers, doctors, and lawyers are also recruited in this way from the lower classes. Between the primary and secondary schools are preparatory schools, where the subjects taught in the primary schools are brought to greater perfection before the pupils are passed on to the Government schools. The Government schools are each of a special character. There is an *Ecole Polytechnique*, where the members of the scientific corps of the Egyptian Army receive their training. There is a Surveying School. There are schools of law, medicine, and the higher mechanics. Finally, there is a normal school, but only of two years' standing. Though this higher teaching, originally introduced by Mohamed Ali, but allowed to collapse by his successors, has only been revived a few years, it is producing much good result, and a certificate that he has passed through a course of study there, already stands an Egyptian in good stead in the battle of life. Diplomas are not yet given. The reason why they are not, is a curious illustration of the manner the Egyptian Government is *exploité*. "The Viceroy does not allow diplomas because those who received them would consider the Government bound to give them employment."

After visiting the boys' schools, I went on to the girls' schools, which are a new institution of exceptional importance in Egypt. Women have, hitherto, under the Moslem rule, led a veiled, secluded, useless, ignorant life in the harem. Here and there European governesses have been introduced, but the cases are so exceedingly rare, that it may be broadly stated that, up to two years ago, women were not educated in Egypt, and consequently, national education wholly wanted the true foundation of all teaching—the mother's lessons to her children. But two years ago one of the Khedive's wives, a woman in advance of her country, determined to found and endow a school for her sex in Cairo. An ancient palace was utilized, a staff of teachers organized, dormitories arranged, classrooms and playgrounds provided, and the Cairo public invited to send their daughters to be taught, fed, lodged, and clothed free of charge. At first the invitation met with no response. Even 18 days before the day named for the opening of the school, there was not a single name entered. The authorities were in despair. The project seemed hopelessly in advance of public opinion. It was seriously proposed to draught in a number of foundling children from the hospital, so that the school should not be wholly without scholars. But on the 18th day came an Arab mother with her daughter. Three days' later a batch of 17 arrived. The school would only contain 300, and on the opening day 400 had to be rejected. Since then the applications have never ceased, and there are now over 900 waiting acceptance. A second school has been opened, a third is in process of erection, and numerous signed petitions for similar institutions have come from the large towns in the interior; in fact, popular prejudice is completely routed.

The instruction given is such as is calculated to enable a woman to become the capable mistress of her household. Twenty-four hours a week are given to intellectual training, the rest are devoted to instruction in needlework, cooking, washing, and the proper management of a house. The training is for five years.

It would appear as if a benevolent and intelligent despotism, such as exists in British India, tempered by the action of a free press, and the independent character of the high officials, would be the best thing for Egypt for the next quarter of a century, but the spirit of the age is in favour of Constitutions, as if they were of universal application, without

reference to the culture of the people. By the organic law of May 1, 1883, there ought to exist in Egypt (i) a Council in each Province; (ii) a Legislative Council; and (iii) a General Assembly, but up to date none of the Provincial Councils had been convoked, though Nubar Pasha was reputed to be convinced of their importance. The Legislative Council is in existence, but works in private, only as a consultative body. The General Assembly has never been convoked. It is just as well that these wretched travesties of Constitutional Government, though well intentioned, should remain in abeyance: they would be merely the screens, behind which high handed men, of the Bismark type, would work their own wayward will.

After all, the real difficulty in Egypt is the financial state. Like the old man in Sindbad the Sailor, the country is weighed down by an incubus: it is of no use asking, how did it come about; *it is there*. Ismail tried to carry out, in a few years, what was the work, the *slow work* of a century: he took up loans, the interest of which would tax the resources of a much larger and richer country: he was plundered most outrageously in the mode of getting his loans: he was plundered still more in the mode of spending it and took his share of the plunder. I quote the thoughtful and reasonable remarks of an anonymous correspondent of a leading journal:—

This brings me to the running debate in the sphere of the Egyptian problem—the financial question. I have no partial sympathy with the Egyptian Government. He is, I presume, entitled to just as much and as little consideration as any other investor in the world's funds. The senseless outcry which would represent him as the villain of the Stock Exchange, could it do so, would be as senseless as the outcry as it is unjust. In abstract justice, he is entitled to a position which should be treated differently to the creditor of any other bankrupt State, but whether we like it or not, we have to recognize the fact that we cannot so treat him. He is the *prodigal* of the United Empire, he is the misapplier of the Egyptian policy of several European Governments, and to ignore the fact is a glissading running of our head against a wall. We have to compound with our creditor quickly, or worse will follow; and our only present resource is to get rid of this prominent and disagreeable personage on the most advantageous terms. The debt of Egypt is, roughly speaking, 100 millions, costing the country £4,250,000 annually. A very obvious remedy would be to guarantee 3 per cent. upon the total amount. We should thereby reduce the charge by one million, and as Egypt has hitherto paid the four-and-a-quarter millions within £200,000, there would be no appreciable risk. Such an arrangement, however, would not only be giving a large bonus to the bondholders, but would be placing on the same footing different loans having very unequal securities. Moreover, it is clearly inadvisable to make so substantial a concession, even though unattended with risk, without obtaining adequate advantages. When we should be prepared to insist on having, for a period at least, the sole management of the country, we should endeavour to interest the other Powers in our success, or at least to ensure their benevolent neutrality. I would, therefore, in the first place determine the amount of our guarantee by the value of the stock, and limit the duration of it to such period as we remained in possession of the country.

Now the 104 millions of Egyptian debt at to day's value do not represent 77 millions of actual cash, but the bondholders might plausibly argue, that the price of the stock after three years of English mismanagement, is not a figure which should form the basis of calculation. They may fairly say that we have depreciated the value of the securities by our intervention, and that we cannot take advantage of our own wrong. There was, however, a period when, for a moment, it seemed as if Egyptian stock were going to become worthless under the rule of a military adventurer. From this fate we saved the bondholder, we shall be doing him ample justice if, valuing his stock according to the average of the first six months of 1882, we guarantee him a 3 per cent. upon that value. In other words assuming that Privileged and Unified during that period should have proved to have averaged respectively 90 and 80, the holder of £100 stock would receive the British guarantee for £2 14s. and £2-8s. respectively, such guarantee to be contemporaneous with English government of Egypt, and to be withdrawn when it ceased.

Speaking roughly, the Egyptian debt thus valued, would be about 80 millions, the guaranteed interest £2,400,000. Were England, devoting about £1,000,000 yearly to readjustment of taxation and public works, to place aside £3,000,000 for the service of the public debt, employing £600,000 yearly to its reduction, that debt, at the end of the 30 years, would be reduced to £50,000,000, and 20 more years at the same rate would suffice to extinguish it altogether. That is to say, instead of the present expenditure of £1,250,000 for service of debt, the new arrangement would show:—£250,000 for covering yearly deficit; £1,000,000 for adjustment of taxation, public works, &c.; £3,000,000 for service of debt, including extinction in 30 years—total £4,250,000. And this, be it observed, is leaving the administrative budget unaltered, that is to say, making no allowance for the increased revenue obtainable by taxation of Europeans, and for the largely diminished expenditure incurred by the abandonment of the present complicated international government.

One of the most abominable features of the whole affair still remains to be told: it is that every European who is domiciled, or dwells as a bird of passage in Egypt, is free from every form of taxation, and pays nothing to support the State. "The law relating to taxation ought to be applicable without distinction to the subject of the Sovereign of the State, and to the aliens dwelling under his protection. This would add £100,000 per annum to the revenue, and remove a feeling of irritation, which not unnaturally exists in Egypt against the injustice of the present practice. It is difficult to imagine any grievance more galling to a people than the gross inequality which now exists between natives and Europeans, and which makes the humblest Egyptian artisan subject to a 'professional tax,' from which the richest European merchant escapes scot free." The above are the words of Lord Northbrook in his Report, dated November 1884.

It will scarcely be credited by any one upon whose attention the fact has never yet been forced, that in their own land the natives of Egypt are placed at a cruel disadvantage commercially in their competition with the alien settler, who can claim the protection of a foreign Government. The native Egyptian is subject to taxes, imposts, and disabilities which the foreigner, however long resident, escapes, and the consequence is that trades

and industries which the natives are perfectly competent to carry on, are usurped by strangers, whose only object is to get as much as they can out of the country, and then leave it as soon as possible.

As to the connection of Egypt with Turkey, it must cease altogether. Austria had to give up Italy : France parted with Alsace : England lost her American Colonies. The tribute payable by Egypt to the Sultan was a personal matter, between the family of Mehemet Ali and his Suzerain. England once paid tribute to the Danes, *cessante ratioc cessat lex*. It is a monstrous abuse that such a tribute should be paid, and an act of oppression to the people of Egypt. Tributes from one State to another are anachronisms. The slave trade must be peremptorily abolished under the severest penalties : slavery itself should be quietly suffocated by the application of the famous Indian Act of 1843, and intermediately every shareholder should be heavily taxed for each slave, and their number registered : no runaway slave can be restored : in the course of a quarter of a century the custom will disappear. It is nonsense to say that a Mahometan country cannot exist without slaves. How do the forty millions of Mahometans in India get on without them ? What short work was made of the status in Algeria and Tunisia ? Until slavery is got rid of, there will always be an objection on the part of free men and free women undertaking the duties of domestic service. I found this feeling very strong in Palestine. Girls educated at orphanages refused to go out as servants, even in good Christian families. I visited the Home that has lately been opened at Cairo as a refuge for runaway female slaves. I cannot say that either the locale or the method met my approbation. I saw two runaway white slaves, who had escaped from the Home of one of the sisters of the Khedive, who came in person to try and persuade them to go back, which they declined. They received their certificates of freedom, and went their way. I remember such cases often occurring in India thirty years ago. Female slaves sometimes escaped from the house of a Nawab, and made their way to the magistrate's court and petitioned for freedom. The operation was very simple, and on their petition were scrawled the words—" the petitioner may go where she likes," and their freedom was accomplished ; and any attempt on the part of the Nawab to recapture them would have been punished under the Criminal Code. By this gentle process slavery has died away in India. Some raise up a phantom danger in the possibility of a religious war. There is not much fear of that in Egypt : they are not very good Mahomedans, and so long as there is entire toleration of their worship, the endowments and emoluments, and influence of the religious leaders can with safety be permitted to exist for a single life, or a couple of lives, and then lapse. I can

well remember how we dealt with the Sikh priests and the holy men who had been so troublesome and influential. We told them that they would be allowed to enjoy their property in peace for their natural lives, and afterwards for the lives of their sons, but that they must leave other people alone. If they raised a tumult, we told them that they would be chopped into pieces, and their lands confiscated. All these good old fellows have long since been burnt on the funeral pile, and their very names forgotten. One tribe asked leave to continue their ancient practice of killing their female children. John Lawrence gave vent to a slight oath, when he heard this, and told them that the first of them who did this, would be hanged. Eventually we laughed them out of Court by changing their title of "Baba," or Father, by which they were called, into "Papi" or Sinner. In the first years of a new system some private hardship must be expected; let it be as little as possible, and the period as short as possible.

I cannot see reason why the Suez Canal should necessarily be considered an integral part of Egypt: it is fenced in by sand on both sides, and is a little world in itself, and might be placed under international protection and treated as an arm of the sea. It is just as much a part of Palestine as it is of Egypt, and not necessarily a part of either. It has been a heavy curse to Egypt by the amount of forced labour exacted and burdens imposed. In considering the future destiny of Egypt, it is to be hoped that country will be considered apart from Turkey, the Suez Canal, and the Sudan; in fact, the Egypt of the Nile Valley.

Now, if Egypt were an island, or if it were a province attached like Sindh or Burma to India, the retention of it under British control might pay. In this way the annexation of Tunisia to Algeria has answered the purposes of the French, and the annexation of Bosnia and Herzegovina has not been a source of weakness to Austria. Egypt has an income of eight millions, with a possibility of large expansion. This exceeds the income of the largest of the Indian Tributary and Protected States. It may in passing be remarked, that in not one of these States has any attempt at progress been made by a Native Ruler, and they still exist. The unhappy Ismail tried to make progress in Egypt, and he has perished in the attempt, and his country been brought into great peril.

Egypt is not an island, but a Mediterranean power:— Alexandria is one of the greatest of ports. Tripolitana, its nearest neighbour on the West, is gravitating towards Italy, and as to Syria on the East, its destiny is clear. Just as the serpent covers his victim with saliva before he swallows it, so has France by religious and commercial enterprises and establishments,

prepared Syria for absorption. With such frontiers on the east and west, the occupation of Egypt would not pay its military and civil expenses, independently of the debt which, under European guarantees, absorbs half the income of the province. Then France has a sentimental feeling with regard to Egypt: It was the first European country that actually got military possession of that country and thoroughly described it: the *lingua franca* of the country is French: the laws and law courts are framed on a French type: much of the administration is Frenchified. If England were to annex Egypt, it would be an affront *which France would never forgive*. Imagine a state of European war, and the strength and resources which would be required to retain a really worthless province. Then, again, Egypt is not like India: there will always be a large admixture of European immigrants and a leaven of European nations. The people have already dabbled in Constitutions. In Egypt I fell into conversation with an intelligent Egyptian, and I casually remarked that Egypt was a worthless country. He looked at me with astonishment, and replied that it was the finest and richest, and most desirable country in the world. No doubt every black beetle thinks himself the largest and most shiney of his species. The Irishmen no doubt have the same opinion of Ireland, and the Bulgarians of Bulgaria. It is patriotic, but not true: yet the sentiment might give a world of trouble to a foreign conqueror.

The rule of Ismail is a sad one to read of. He was most unscrupulous; he got rid of troublesome servants or subjects with a cup of poisoned coffee: one very troublesome financier was invited to visit him in one of his palaces, where he was said to be unwell, and was never seen or heard of again. Of the loans for which unhappy Egypt is now hypothecated, he made away with a large portion, and took out of the country when he was exiled. Never have Juvenal's lines been so truly applicable

Exul ad octavum consulbit, at fruitur Dis  
Invitis; at tu Victrix Provincia, ploras!

What of the Governors whom he enlisted in his service? Infamous in their private lives, surrounded by the slave, the eunuch, the concubine and the dancing boy; utterly without principle, or knowledge, or sympathy with the people in the discharge of their public duties, no form of law existed but that of the strongest. Interspersed with such Governors were members of the ruling family of the worst possible types. Gradually Ismail had got possession, as his private domains, of a large portion of the soil of Egypt, which he distributed among the members of his family. Something of the same kind had been effected by the ruling families in Upper India, and the revenue of the state was impaired by alienations. The English

official, wheresoever he goes, carries with him in his office box the dignity of an Englishman and a Christian. Under no circumstances, in any place, and in any environment, would he condescend to do or say what is false and mean; he would shrink from what is cruel and treacherous: he would proudly turn away from what is wanton or sordid. Such have been the characteristics of England's soldiers and civilians in India with some rare exceptions, which have been noted for the stern punishment and scathing condemnation which they received. We had to clear out the harems of the Sikh Rulers at Lahore, and of the Great Mogul at Dehli: it was a perilous task, but men were found equal to the occasion. Treasuries had to be emptied, and the contents conveyed away. I myself, in my small local treasury at Hoshiarpur, had to receive thirty lakhs in silver, paid in as part of the price of Cashmir, and as no room would hold it for the night, I had my bed spread upon the bags, and saw it safe under weigh at early dawn.

English Governors have often times their patience tried by persistent opponents: they have by persistent efforts captured them, and tried them, and executed them, but they have never made use of the coffee cup, or the secret dagger, or the oubliette. Had Ismail not been deposed, we should never have heard of Arabi, he would have been comfortably disposed of. The rule of British India is founded on justice, and mercy, and sympathy for the people, and that is the reason why it has continued. No re-called Viceroy has left Calcutta with shiploads of women and plunder to eke out the remainder of his days in the Favorita Palace in the Bay of Naples, or in a Kiosk on the Bosphorus.

So poisonous has been the official air, so foul the administrative environment of Egypt, that even English Governors have forgotten their high character, and done what they would never have dreamt of doing in a like position in British India. The name of Gordon Pasha, Governor-General of Equatorial Africa in the time of Ismail Khedive, carries with it in most minds its own estimation. A book was published in 1881, called "Colonel Gordon in Central Africa," by Dr. Birkbeck Hill, compiled from original letters chiefly to his sister. At page 345 we read the following remarkable word—"I got the slave-dealers chained "at once, and then decided about the slaves. The men and "boys were put into the ranks of the army, and *the women* "told off to be wives of the soldiers." Again—"Some of the "poor women were quite nude. I disposed of them in the same way: what else can I do?" I do not think that any of the high-minded officers in civil employ in India would have, under possible circumstances, distributed unhappy women to be wives of the Sepahis. Many of these women were already wives and mothers, who had been torn from their homes. In India they



would have been carefully segregated under the care of old grey bearded men, and the fertile resources of benevolent men would have been exercised to convey them to some shelter. Better far the tender mercies of the slave dealer, or the coffee cup of Ismail, than the sentence to be the temporary concubines of troops on the march, to which a Christian Governor consigned them.

Then, again, the Christian Governor-General had a mosque cleaned out, restored to worship, the Priests and the Muezzin were endowed, and a great ceremonial took place for the re-opening. "This was a great coup," he writes: "to me it appears that the Mussulman worships God as well as I do, and is acceptable, if sincere, as any Christian." Such conduct, such sentiments, would be viewed in British India with the highest condemnation, and yet the Mahometans in India count by millions: in Das-Fur, where this mosque was situated, they count only by hundreds. At page 100 we read that Gordon paid for the expense attending the *circumcision of a boy*.

We have heard a great deal of the slave dealer Zebchr, whose son was executed by order of Gordon Pasha, and at page 409 of the same volume we read how this happened: "I send you Gessi's letters, which tells of the end of Zebchr's son (aged 22). I have no compunction about his death; I told them that if *he fought the Egyptian Government, God would slay him*. Gessi only obeyed *my orders in shooting him!*" What would Henry Lawrence, or John Lawrence, or Dalhousie, or Canning have said or done in reply to such a report from one of their subordinates? How knightly seem the forms, and how noble and yet how clement, the sentiments of these great men. I only mention these instances to show how hopeless is the case of Egypt, until a clean sweep has been made of the Turk, the Circassian, the Albanian, the Arnout, and the ignoble ruling class of the Mahometans; I wish also to shew how insensibly Christians fall to a lower level from the contact, for it is shocking to record, that the ordained priests of the Coptic church in Egypt were the most expert operators in the abominable trade of making eunuchs, and we have seen above how one of the noblest Englishmen seemed like a chameleon to assume the colour of the leaf on which he rested, and to forget pity, in the disposal of poor women, the precepts of Christianity, in repairing mosques, and mercy, in the dealing with his political antagonists.

At any rate for the reasons given above, let England clear out of Egypt at the earliest possible date: the longer the occupation lasts, the more difficult will be the departure, and the harder the fate of those who have been friendly to us,

At the same time no other European nation can be allowed to take our place. There is no fear of internal revolt from the people: the great Powers of Europe must be responsible that there is no invasion across the frontiers, and, in fact, the northern frontier is the only dangerous one, and the only invader to be feared is England, France, or possibly Italy. Let the present Khedive, who as a man is faultless, though as a Governor he is weak, be encouraged to introduce an honest, a sympathetic, and a just Government, availing himself of the aid of a few men chosen from European states, but dependant on him only. Let the bondholders wait their time, and the interest of the debt be postponed to the legitimate requirements of the country. Let the people have time to recuperate and get fat, and extend cultivation over land rendered cultivable by extended canals. Let sanitation, vaccination, education of the rural population, and municipal corporations stand over for a season, until peace and quiet, order and justice are re-established, and Egypt will then take her place among the nations, with eight millions of population, and twelve millions of annual revenue, collected by lawful methods from a contented people.

*London, October 1885.*

ROBERT CUST.

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## THE QUARTER.

THE English elections have resulted, after all, in somewhat decisive Liberal victory, and for reasons purely Indian in their character and significance, this must be regarded in the light of an Indian calamity. It is to be feared that the Indian policy of a Liberal Government will be the policy of Lord Ripon, or will be colored by that singular mixture of cant sentimentalism, mischievous appeal to race prejudice, miscalculation, and general imbecility which will be for ever associated with the memory of Lord Ripon's administration in India.

The Burmah campaign was short and sweet, very short and very sweet. We came, we saw, and we conquered. The faint show of resistance attempted at first, collapsed very soon, and there can be no doubt that this was owing, in a great degree, to the praiseworthy rapidity of the British advance, and the admirable manner in which the British military arrangements were completed in a very short space of time. Mr. Bright attributes our invasion of Burmah to the "swarm of military people" who surround the Viceroy, a swarm very hungry for appointments, honors, decorations, and so forth. Now as regards the late invasion of Burmah, the statement is not only untrue, but curiously and rather ingeniously the very reverse of the truth. Even Lord Ripon would scarcely have the hardihood to say that the pressure of opinion which brought about the invasion of Theebaw's dominions was military pressure. Would Mr. Bright be very much surprised to hear that the members of the Burmah Trading Company are not military officers; that the members of the Rangoon or Calcutta Chambers of Commerce wear neither cocked hats or red coats; that Mr. Keswick is not a Major-General—would all this be very startling information for the pugnacious member of peace-loving Birmingham? This is another instance of that carefully-cultivated ignorance which Mr. Bright brings to bear on all questions relating to Indian administration. It is a pity, for his own sake, that he did not become Secretary of State for India in the late administration. He would certainly have ruined India, but then he might have improved himself.

Mr. Morley was very freely vituperated by a certain section of the Native press, because (although a Radical) he had the courage and honesty to assert, that there was still a mass of

"ignorant and excitable barbarism" underlying the smooth surface of Native society. This imputation on Indian Nineteenth-century civilisation was energetically disclaimed in some of the Native prints. The recent occurrences at Broach furnish a suggestive comment on these disclaimers. The other day, in broad daylight, a number of native fanatics assembled under a tree in the neighbourhood of Broach, and had a short preliminary consultation as regards the best means to be adopted for upsetting British rule and exterminating British officers in that station. As a result of this conference, a sudden attack on Broach, with the necessary accompaniments of wholesale murder and general arson, was decided on, and immediately carried into effect. The fanatics rushed the station and made for the Collector's house; fortunately he was out, but they met Mr. Prescott on the road, and assaulted him so severely, that he died, of the injuries which he received, in a few hours. They were then tackled by the police, but they fought desperately, and did not finally disperse until five of their number were killed and several wounded. Several of the Policemen were seriously wounded in the fray.

The Camp of Exercise at Delhi is now in full swing as far as the preliminary preparations are concerned and the number of foreign officers attending the manoeuvres is unusually large. However unsatisfactory our "little wars" may be in other respects, they have conduced to one most satisfactory result, namely, an enormous improvement in the organisation of the British army. We can remember Bombay in 1867 (when the British forces were being embarked for Abyssinia) and the scenes of confusion, amounting to chaos, which attended the process at that time. Now, all this is changed, and troops, stores, and horses are put on board with a rapidity, ease, and completeness of arrangement, in the highest degree creditable to the military authorities.

The report containing the result of the official enquiry into the loss of the ship "British Statesman" was published during the quarter. It contains some startling information and some admirable suggestions. The loss of the ship is attributed to two causes: first, and in a very principal degree, to the manner in which the cargo (bags of rice) was stowed, and 2nd to defective seamanship on the part of the Captain. The bags it seems were stowed in such a manner that they were certain to shift if the ship rolled much (as she was bound to do in a very heavy sea) and it seems that this way of stowing rice cargo is very common, and it is only wonderful that accidents and losses have not been more frequent than they have been.

The Stead trial resulted in the conviction and punishment of all the principal parties concerned except Mr. Bramwell Booth. Mr. Stead himself got off very lightly, with a sentence of three months simple imprisonment, enough to make him cautious as regards infringing the law in the same way again, and not enough to enable him to pose as a martyr in the cause of virtue and morality.

Lady Dufferin's Fund, in aid of the movement to establish an organisation for the medical training of Native women, continues to prosper. Subscriptions to a very large amount have been received from every part of India, and from all classes of Indian society—and "the cry is still they come." As we have said, to Lady Dufferin belongs the credit of reviving this movement: it originated with Dr. Corbyne as far back as 1872. Dr. Corbyne is still alive. He has retired and is living in England. Lady Dufferin would be the last to wish that the services rendered to this cause by its originator should be wholly ignored now.

The P. & O. Mail Steamer "Indus" was wrecked during the quarter. This is the first accident of its kind which has happened to a P. & O. vessel for a number of years. The steamer was wrecked off the coast of Trincomalee, and owing to some cause or other (possibly owing to the action of currents) the steamer was out of her proper course, when she struck, to an extraordinary extent. There was no loss of life as the passengers and crew were allowed plenty of time to leave the ship, but the vessel became a total wreck, and the cargo was lost.

It is to hoped, sincerely hoped, that Lord Randolph Churchill's proposal for an inquiry into Indian administration will be carried into effect, and that at no distant date. There was an inquiry of this nature in 1832, and it led to many reforms and changes in the machinery of the Indian Government. The inquiry, or rather the proposal that such an inquiry should be held, carries with it no reflection on the zeal of our administrators or the general efficiency of our administration. Nations, like trade firms, are bound to take stock of their possessions every now and then, and nothing but good can result from a thorough investigation on the lines indicated by Lord Randolph Churchill.

In the interval between his departure from Simla and his arrival in Calcutta, Lord Dufferin made a Viceregal tour in Northern India, and visited some of the principal Native States in Rajputana, Jodhpur, Oudipur. His Excellency

was, as a matter of course, received everywhere with every demonstration of loyal welcome. These progressions are said to do a great deal of good; perhaps they do: they certainly must do the Viceroy himself a great deal of good in one most important direction. A statistician has made a calculation from Lord Dufferin's speeches, which furnishes some very gratifying information indeed. Lord Dufferin was never "so happy in his life" 50 times; he experienced sensations of "the greatest pleasure" 900 times, and "nothing ever gave him so much satisfaction" 532 times.

The work of frontier delimitation has actually begun. A frontier pillar has actually been erected; so far everything has gone smoothly with the Delimitation Commission, and whatever difficulties may arise in the future, English diplomacy will be much simplified, and English action greatly facilitated, by the work which is being done by the Boundary Commission.

The Indian candidates, including the Englishmen who accepted the political programme of the Indian delegates, were not at all successful at the English election. All the prominent Indian candidates, Baboo Lal Mohun Ghose, Mr. Digby, Mr. Wilfred Blunt, Mr. Seymour Keay were defeated. The reason is not far to seek: interest in India and Indian administration is undoubtedly increasing in England. It has not reached the point, or assumed the characteristics, represented by Lal Mohun Ghose and Mr. Wilfred Blunt. The English people, strange to say, continue to take some interest in themselves and their own affairs, and this conservative bigotry of national feeling was fatal to Ghose & Company at the late elections.

Orissa was the scene of very widespread distress as the after-effect of the terrible storm off False Point in September. The storm wave swept inland for a great distance, carrying wreck and desolation to scores of villages. Sir Rivers Thompson paid a lengthened visit to Orissa in October, visiting personally all the places which had suffered by the storm, and he organised, with the aid of the local authorities, a system of relief for the distressed villages, which is still in operation, and which already has been productive of the best results.

During the quarter Mr. Cotton delivered a very characteristic lecture to the members of the Bethune Society. Mr. Cotton is the most "intense young man" of the intense political school. The useful word "transition" possesses a great attraction for Mr. Cotton, as it does, indeed, for all political

thinkers of Mr. Cotton's intellectual *calibre*. Mr. Cotton is always reminding us that we live in a transition period of Indian history, although we fancy it would puzzle Mr. Cotton to point to any period of Indian history (since the commencement of British rule) which was not a transition period in the sense in which that word is understood by Mr. Cotton. Mr. Cotton was much distressed at a phenomenon which, according to the Junior Secretary to the Board of Revenue, is assuming a very serious aspect and very alarming proportions: namely, the great and increasing recklessness of the suggestions which emanate from young and irresponsible officials. This is too delicious! Mr. Cotton is young, or comparatively young, but then he is not irresponsible. Some one we assume is officially responsible for Mr. Cotton's official work, but who is responsible for his extra official utterances to the Bethune Society? The sagacious, dignified and clear-headed statesman who tried to serve the cause of the Municipal Commissioners by insulting Dr. Payne; who is always trying to serve the cause of native progress by insulting impliedly, if not expressly, the past history of British government in this country; who appears to look forward with confidence to the near advent of the time when England will forsake her great trust and "scuttle" out of India altogether—this is the man whose sober judgment is horrified at the recklessness of some of the young official ambitions who, fired by his example, have dared to set up in the same line of political business as himself. These last deserve our best thanks, and we wish them every success. There is a story told of a gentleman at Bhowanipore who believed himself to be a tea-pot, and nothing his keeper could do, could dispossess him of that illusion. At last, in a moment of inspiration, a sharp keeper showed him another man who believed himself to be a tea-pot, and the lunatic, through sheer disgust, got rid of his pet particular illusion at once. If the Service could only afford us another Mr. Cotton, the thing would be done at once.

Sindia has been made happy at last. The fortress of Gwalior has been restored to him, and the dream of his life has been fulfilled. Gwalior was first captured by the British in 1780, when Major Bruce, an officer of Popham's force, rushed the defences and captured, with a mere handful of men, what was then believed to be the strongest fortress in India. It is said that the military authorities were opposed to the surrender of the place to Sindia by Lord Dufferin's Government. This, we have good reason for believing, is not the case. Lord Dufferin is not the man to ignore the advice of his military advisers in connexion with such a matter. The truth is that the art of war

especially in connexion with siege operations, has been revolutionised by the progress of invention and military science, and Gwalior, from a military point of view, will not be a very difficult nut for us to crack if we should ever want to crack it, which we hope we wont.

The Government of Nepal is a nominal sovereignty, a real despotism in the person of a despotic Minister, tempered and otherwise made plastic and appropriate by periodical revolutions and general assassination. Jung Bahadoor, as a preliminary to his accession, was compelled to convert most of his relations into movable targets, and his practice in this novel description of shooting gallery was so good, that he ruled in great tranquility and contentment to the end of his days. There was a palace revolution at Nepal during the quarter under review. The Chief Minister was assassinated, and his assassin now rules in his place. This is a little awkward for us. We most certainly don't want to interfere with Nepal, but if the country degenerates into a state of anarchy owing to misgovernment and internecine strife, what are we to do? If we don't interfere, China will.

It is evident that His Excellency tried to do too much in connexion with his tour in Northern India, and had to pay the penalty in the shape of a rather sharp attack of illness just before his arrival in Calcutta. The news of the Viceroy's illness was received by all classes of the community with the most genuine and unaffected concern. Already Lord Dufferin has done much to justify the very high expectations of his admirers when it was first announced that he had consented to become the successor of Lord Ripon. In his dealings with Russia he was very firm, but also politic and conciliatory; the personal impression he made on the Amir,—and with rulers like Abdurahman, personal impressions count for a good deal,—will probably be productive of permanent results favorable to a better understanding and closer alliance between England and Afghanistan; and the rapid stroke of policy and war by means of which he brought the Burma difficulty to a happy termination, was worthy of the older and grander days of Anglo-Indian administration.

The Annual Convocation of the Calcutta University was held during the quarter, and Mr. Ilbert, as Vice-Chancellor, delivered the Convocation Address. Mr. Ilbert was in great force on this occasion. This was to be expected. The learned gentleman is nothing if not academical, and it was expected he would have been seen at his best in connexion with a great academica



celebration. Nor was this expectation in any degree disappointed. Mr. Ilbert's speech was, perhaps, a trifle too long, but, on the whole, it was a noble address. In connexion with a subject like education—a subject which lends itself with fatal facility to the nefarious uses of platitude and commonplace, it is difficult for the most experienced orator to be very original or very interesting. Yet there was much in Mr. Ilbert's address that was both original and interesting. The uselessness of advanced intellectual culture; the folly of wasting public money on the system which provides for the maintenance and development of that culture among the Indian people, is a favorite hobby with the official vandals of our time. Mr. Ilbert's speech was impliedly, at least a noble vindication of a noble

GEORGE A. STACK.

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## SUMMARY OF ANNUAL REPORTS.

### *Report on the Administration of the Registration Department, Bengal, 1884-85.*

**R**EGISTRATION Statistics show a very large increase for the year under review :—

During the past year, there was again an increase in the number of registrations, amounting to 87,378, or 14·53 per cent as compared with an increase of 45 861, or 8·26 per cent. in the previous year. The increase in the number of compulsory registrations, affecting immovable property, exceeded considerably the increase in the number of optional registrations affecting property of the same kind; the percentage of the latter was, however, much higher than that of the former, the increase in compulsory registrations amounting to 43,024, or 12·97 per cent., while the increase in optional registrations amounted to 29,847, or 18·20 per cent. The receipts rose from Rs. 9,74,711 to Rs. 1,074,501, an increase of 10·23 per cent., while the expenditure increased from Rs. 5,04,755 to Rs. 5,54,110, or 9·77 per cent.; the net surplus being Rs. 5,20,391, or 10·73 per cent. higher than the net surplus for 1883-84.

### *Report on the Administration of the Stamp Department, 1884-85.*

**T**HE revenue collected from Stamps shows a large increase for the year under review :—

The gross revenue collected under the two Acts I of 1879 and VII of 1870, was Rs. 1,29,91,191 against Rs. 1,25,76,914 in the previous year, giving an increase of Rs. 4,14,277. Both classes of stamps, judicial and non-judicial, contributed to this increase, the receipts exceeding those of any previous year. As in previous years, the receipts were highest in Calcutta (Rs. 19,24,737) and lowest in Singbhoom (Rs. 6,427). The total charges under both the Acts amounted to Rs. 6,46,077, and the total net revenue to Rs. 1,23,45,114. The general incidence of stamp revenue on the population of Bengal, estimated at 66 millions, is 3 annas 1 pie per head.

### *Records of Geological Survey of India, 1885.*

**T**HIS volume of the records contains a most interesting and exhaustive note by Mr. Middlemiss on the Bengal earthquake, 14th July 1884. Mr. Robertson, Manager of the Seraj-gunge Jute Factory, gives a graphic account of the injury done to the factory :—

Mr. Robertson, the manager, was fortunately an eye witness from a position between the chimneys at the time of the earthquake, and he asserts that there seemed to be a sudden thrust from below, by which the

upper part of the south chimney was first shattered, and jerked off ; and for some time a shower of bricks and mortar continued to fall all round the base. A moment after the large chimney had gone, the factory chimney to the north was affected in exactly the same way ; its upper part being jerked off into the air, and a shower of bricks subsequently descending from the broken edges. If these impressions are to be relied on, two points of importance come out, (1) that the earthquake wave with a steep angle of emergence shot away the upper parts of the chimneys by its first and second semiphases combined, but was unable to overturn them as wholes, because of their flexibility, which would considerably relieve the strain, and because of their breaking above which would further ease them ; and (2) if the south chimney was the first to fall—and there seems no reason why a very slight difference in the order of breaking should not have been appreciable by the eye—then it is clear that the shock must have come from some point generally speaking towards the south : it is in fact easy to demonstrate that the difference in time of the arrivals of the shock at the two chimneys would have been appreciable. For the chimneys are 338 feet apart, lying very nearly north and south : now Mallet gives 825 feet per second as the rate at which a wave of elastic compression travels through sand, and though the soil at Serajgunj is clay and sand combined, it would certainly not be a much higher rate than this. Hence about  $\frac{2}{3}$ ths of a second would have been consumed in travelling between the chimneys, a period of time well above what can be detected by the eye. In reality, however, some small reduction on this value must be made on account of the probable direction of the shock being something east or west of south, a condition which would have diminished the time occupied by the wave in travelling between the chimneys.

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*Government Botanical Gardens, Saharanpore and Mussoorie.*

**I**N the Government resolution we have the following interesting para. :—

Agriculturists in England, acting mainly on the initiation and teachings of Professor La Gasca, a Botanist of Madrid, have traced out at least 150 distinct varieties of wheat ; and Sir John Le Couteur has proved experimentally that, by adopting the variety found growing on the farm in greatest perfection and cultivating from it exclusively, instead of from promiscuous seed, an increase of 80 to 90 per cent. can be obtained. It is in this direction that Botanical research may be said, at present, to be blank for India, and the attention of the Superintendent will be directed to this very important subject.

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*Report on the Administration of the Salt Department—1884-85.*

The total receipts for the year were Rs. 20,27,935 over those of the previous year, the increase appearing under both "Excise and imported salt" and "Rent of warehouses." The increase in duty is due to larger clearances during the year, while the increased receipts from rent of warehouses are attributed to the state of the market which allowed the salt to remain longer in bond. On the other hand there was a small falling off of Rs. 729 in the receipts from miscellaneous sources. The increase of Rs. 21,218 in the charges is mainly attributable to larger refunds of customs duty on salt.

*Administration of the License Tax—1884-85.*

THE principal statistics of this report show some falling off in the number of assesses :—

The figures show that there was a falling off of 293 assessees, and there will be a still further decrease when the enquiries in regard to the outstanding balance on the 30th June 1885, amounting to Rs. 10,223, have been completed. As the figures now stand, there was a falling off as compared with 1883-84, of 29 assessees in Class II, of 30 in Class III, of 26 in Class IV, of 122 in Class V, and 88 in Class VI, while there was an increase of only 2 assessees in Class I.

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*Forest Administration in the Punjab—1884-85.*

THE most interesting paragraph in this report relates to the natural and artificial reproduction of forests in the Punjab.

Sir Charles Aitchison has read with great interest the very complete account given by Mr. Hill of the natural and artificial reproduction of forests in the Punjab. The conclusion drawn regarding the natural reproduction in the Alpine Forests are apparently sound, and it is to be hoped that the expectations of the Conservator will be realized with reference to the deodár forests. It is to be regretted that the young chñ seedlings in Pakli should be annually destroyed by fire, and the attention of the District and Forest Officers should be drawn to the necessity for preventing this. The reports of the forests of the lower hills, the hill rakhs, and the bar tracts, also show that healthy reproduction is in progress. For the purpose of artificial reproduction, numerous nurseries have been formed with varying degrees of success. The force of Mr. Hill's remarks on the necessity of extending operations is obvious, and the instance quoted of the Dungri forests in Kulu, where the same ground has been planted and sown year after year, suggests a want of thought. In the lower hills cultural operations have apparently not advanced beyond the experimental stage. The usual system of ridges and trenches has been followed. In the plain rakhs operations have been fairly successful, but in the Montgomery Division, the jhand seed sown broadcast in the reserves, and a large number of sarásh cuttings, all failed. This is disappointing; but the importance of establishing plantations in the plains of the Punjab is so great, that until the absolute impossibility of success is demonstrated, Forest Officers should not be discouraged in their efforts to improve the rakhs.

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# THE CALCUTTA REVIEW.

NO. CLXIV.

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## ART. I.—MOFUSSIL MUNICIPALITIES IN LOWER BENGAL.

THE Report of the Sanitary Commissioner for Bengal for 1882, the latest to my hand under the heading "Abstracts of inspections," contains the following remarks on the first municipality visited: "Very grave sanitary defects were found to exist in this municipality, of which the chief are the following: "The town is badly kept, being overgrown with jungle, and full of pits containing foul water, in which bamboos are steeped. "The drainage is very defective, the roadside drains being often unconnected, and ending in pits, which being undrained, "allow the water to soak in and evaporate . . . the "streets unswept . . . not a single public latrine . . . re- "served tanks and wells not properly looked after, the banks of "the former being resorted to for defecation . . . water "used for drinking was in a frightful condition, corpses thrown "in at the fishing weir just above the town," &c., &c.

In other inspection abstracts of that and the preceding year we meet with such expressions about some of the largest towns in Bengal as: "This town was found to be in a filthy condition;" "conservancy arrangements continue to be very defective;" "drainage defective, and conservancy arrangements very bad;" "many insanitary conditions obtain in this town;" "conservancy arrangements as bad as bad can be;" and so on. The smaller towns are not often visited, but when they are, their insanitary conditions are shewn up in the same unmeasured, and, as every one knows, truthful terms. The Sanitary Commissioner makes his rounds year after year, and the same remarks on the same places have to be recorded. The municipalities are very conservative, and very seldom can the inspecting officer detect any action taken on his remarks.

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Under the heading of "Official Sanitation" the *Reis & Raynet* of 8th August 1885 had some sensible observations on this useless iteration, year after year, inspection after inspection of the same sanitary defects. It gave a long list of the stock ones so often repeated, and then the writer proceeds to state that after he had listened to the well-worn theme from an inspecting officer, he could not refrain from asking him, if he did not seriously think the report could as well have been framed in his office. "What part of the country was free from these general characteristics, that he should have to stray abroad in quest of them. The whole was a question of money, and the mere bidding of the sanitary department was useless. Their ancestors never made houses before providing for an efficient drainage, and if their drainage is now out of order, the blame does not lie wholly against them. The railway embankments have affected it a great deal, and the crowding together of masses of work-people at the centres of European commerce and manufactures has also had its natural effects." He then proceeds to argue that the evils have grown up independently of the people, and that therefore they are not responsible,—they pay municipal and district rates, destined for expenditure under state management, and the state is therefore responsible for all these defects.

I wish now to consider whether any progress is made under the present system of municipal government to remove the glaringly bad sanitary condition of nearly all of the towns: and if not, in what direction a change could be made to bring about the wished for results.

The first part of the question may be quickly disposed of. Sanitary progress, except in Calcutta, is almost nil; and of the suburbs of Calcutta I find in the report for 1881, that their condition is worse than that of any of the bad towns in the mofussil. To the state of the suburbs the public, however, is quite alive, and there are hopes that proper steps will be taken to improve them. In the mofussil towns often there is absolutely no progress at all, and merely by the lapse of time things are going from bad to worse. Here and there some progress is made, but even that is wretchedly slow. The reasons of this lack of progress I believe to be the following:

First, there is the general ignorance of sanitary matters which, till very recent times, was to be found over all the world. In England and America, the foremost countries in sanitary science, the attention that is now devoted to it is quite modern. In the last century, and in the beginning of this, sanitary matters had very scant consideration; and the drainage and conservancy of English towns was often terribly bad. But *now* we have changed all that, and in every town in England there are sanitary experts, professional and amateur, and the subject is pursued with an

energy of application, equal to that displayed in other walks of life by the Anglo-Saxon race. And I think with pride and truth we can say, that this good leaven of zeal in sanitation has been introduced here in India, and every attempt is being made to spread it amongst our native fellow subjects. But sanguine indeed must be the man who can think that of its own accord it will spread amongst the native community, which is so strong in its "*vis inertia*," and so weak in its power of voluntary association for the public good. Anyhow, there need not remain any doubt, for we whose duty it is to go about in the towns and villages can assert that the leaven is *not* working, and that the new science, to which much of Europe even is still a stranger, has not yet found a home in the native breast. The "*Reis & Rayet*" may be correct in predicating certain sanitary virtues of the ancient Hindus, but alas! those virtues are now things of the past. Besides we have to deal with many other races than the pure Hindus. None have ever, in these days, any idea of sanitary science as now understood; and those who are responsible for the government of the country in its municipal department must remember this. At present they appear to assume that municipal affairs can be executively conducted by mere tyros.

As far as inspection goes the fault of the present system is that every municipality is tried by the same procrustean measure, and all are recommended to adopt much the same remedies. No study is made of means to an end, and some of the recommendations remind one of a doctor who prescribes port-wine and champagne for a pauper, or a trip home to a poor Anglo-Indian. "Pucka" drains, and a complete system of night-soil conservancy may stand for the above luxuries; and are in most of the cases equally unattainable. The cause of making these unreasonable demands is, I consider, the failure to properly grade sanitary improvements, and to distinguish between what is necessary for a thickly populated area, and what is sufficient for a thinly populated one. Then, again, in each case there must be a study of the local conditions. This I don't think is made. On the other hand the municipal authorities themselves, in their ignorance and impotence, have generally done nothing except make an attempt here and there at what may be called superfine sanitation. Perhaps they build, as I saw in one rural town, model latrines, which evidently had no use except to be looked at. The result is that no progress is made, and no one ever shows the bewildered commissioners how to begin. They are told that everything around them is in an insanitary condition, and they must remedy it all. It is as if little boys just learning how to spell were censured for not being able to read a difficult book; and the master having blamed them for their ignorance, immediately departed.



It is not likely that they would be much wiser when he returned next time. So it is with the municipal commissioners. They cry "*non possumus*;" and there the matter ends till the sanitary commissioner comes round again a year or two afterwards.

Lest it should be urged against these poor ignorant men, that they should live and learn by what they see an intelligent Government doing around them, I may point out that there is often a sad neglect of sanitary principles by the officers of Government themselves. Railways and roads are very often, I think I may say, generally, made, even in populous neighbourhoods, without any attempt at drainage. The work is given out on contract, and it seems no one's duty to look beyond his nose. If the embankment is made, the contractor gets his money and the engineer is satisfied; and unless there is a regularly defined water channel of some size the surface drainage must dispose of itself by percolation. Again, the P. W. D. build in the middle of a municipality. The sanitary commissioner says that excavations and ditches which catch the drainage with no outlet, are bad. But when earth is wanted for a plinth the Government officer, by excavating unsightly holes and ditches, deliberately causes, what its sanitary authority declares injurious to health. Altogether, the latter is like one crying in the wilderness, for no one heeds him, not even his fellow Government officers.

There are, I think, two faults at the bottom of this failure of municipal sanitation: first, the want of knowledge and experience on the part of the municipal bodies; secondly, their general want of business ability in this direction. There are few, very few commissioners, who carry in their minds any idea of public wants beyond roads: and if only these are high and dry in the rains, they are perfectly satisfied. Of late lighting has become very popular, and it is the fashion to have a few dim and ill-kept lamps on the favourite promenade. The town may be, and generally is, provided with badly constructed roads, has no system of drainage or conservancy, produces unreliable vital statistics, and is otherwise without the rudiments of the sanitary art: yet the first surplus is devoted to lighting a promenade. It reminds one of the naked savage, who put on a hat and a pair of boots, and thought he was fully dressed.

The truth seems to be that town sanitation in the mofussil is regarded by Government as too empirical to be subjected to any rules. And yet during the last 20 or 30 years, great sanitary discoveries have certainly been made in England, in a few other countries, and at the presidency towns of India they have been more or less reduced to practice. These discoveries clearly point to the need of pure air, pure soil, and pure water as being the primary wants of human beings.

They may be called the necessities of life, compared with such conveniences as metalled roads, lighting, schools, free dispensaries, public libraries, and so forth. Of course it cannot be for one moment contended that the necessities in this case should be *fully* supplied before any conveniences are allowed. But only let the two sets of wants be clearly understood, and each receive its due attention. At present I fear native gentlemen are too inclined to ignore the first set, and spend lavishly on the second. A charitable dispensary, or as it is in these days, a free dispensary supported out of the taxes, I would put in the second class; and I would at the same time protest against these institutions being wholly supported out of the taxes. The municipal report for 1883-84 shows that in first class municipalities Rs. 88,000 were spent on the maintenance of medical institutions, whilst only Rs. 43,000 were spent on drainage; and in second class municipalities whilst the former shows Rs. 20,000, drainage has but Rs. 5,000. I merely quote these figures to show what a very subordinate charge on the taxes drainage is, when compared to medical relief: and this when we have the assertion of the sanitary commissioner that the drainage in nearly all towns is intolerably bad. Some three or four years ago all these free dispensaries were kept up principally by voluntary subscriptions, but in an unfortunate moment they were made over to the municipal committees. As might have been expected the fountains of charity immediately began to dry up; and each succeeding year shows a decrease of subscription; and if I mistake not, the reports for 1884-85 will show a further decline, while larger sums are paid to medical relief out of taxation. Surely prevention is better than cure, and this money if spent on draining the towns would prevent more illness than it now relieves. When Government freed municipalities from police charges it was with the declared intention that the amount so saved should be applied to conservancy: but owing to mismanagement much of the savings has been swallowed up by secondary wants. In consequence very little benefit has been conferred, except it be on the former subscribers to dispensaries, and as charity like mercy blesses him that gives and him that takes, even they have some cause of complaint. The truth is no one was by to guide and direct the commissioners, and generally they have simply frittered away the State's gift to them.

All this has been owing to the ignorance of public opinion, both as to the necessity of drainage and conservancy, and of the way to set about them. In both these respects the native public sadly want education. In England we find that by health acts, and sanitary inspections, the chief principles of sanitation are enforced. Of course the often ill-built and overcrowded houses of the poor cannot be immediately remedied, but they are

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recognised as evils which should be removed. Public opinion is the moving spirit and is supported by the law ; and these two forces act and re-act on one another. Here, in Bengal, the sanitary commissioner, year after year, says of our principal towns, generally the head-quarters of district government, that the very first elements of conservancy and sanitation are neglected. The streets and bazaars are left littered with animal and vegetable matter, pools of stagnant and putrid water exhale odours of the worst kind, drains are blocked up with refuse sweepings, water which might easily be drained off is left to stink and poison the air, people are allowed to throw human corpses into sources of water supply—and so on. Thus the very decencies of municipal life are not observed. Again, often nothing is done to appropriate grounds for burial in crowded areas, to protect the drinking supply from ordinary contamination, to gradually introduce a system of drainage, to prevent encroachments on public roads, to open out and re-align roads, in fact, to do the thousand and one things that go to create a civilized state of affairs. Before coming to these conclusions I may add that I have had opportunities of visiting a score or more of municipalities in about a dozen districts, within the last 5 years, all of which I took care minutely to examine. But as the *Rev's & Kayret* says, why stray abroad in quest of these things? They are characteristic of every part of the country. That paper further says, that Government is responsible for them by sins of omission as well as of commission. As far as my observations go, the P. W. D. certainly often helps to create a great deal of insanitation, even in the present day ; and in former times it was the district officers who did much to obstruct the drainage of our old stations. For instance in that of Furreedpore there is a series of roads all at right angles to the slope of the country. They have next to no waterway, and what there is, is inefficient from being at too high a level. The villages within this ring fence are the unhealthiest part of the municipality, and have frequent cases of cholera and fever. And is it to be wondered at when they are thus made to stew in their own juice. The enclosure of course is rich with vegetable and animal matter, and the odours to be met with on the lowest containing road are of the most varied description ; every few steps will often bring out one of a different type, the water there collected being blackish and brownish. Naturally, before the several roads were constructed, the villages were cleaned out with the first heavy storm of the rains, but ignorance has girdled them with a well-raised road, and all nature's contrivances are destroyed ; for now nothing but the spill of the heaviest rainfall can escape. The rest must sink into the ground, or gather into the numerous deep ditches

and pools whose bottoms are almost impermeable from the slime and slush. Thus the water can only be got rid of by slow evaporation, and the rich steamy vapours that rise seem at times to be perceptible to other senses than the smell, for like thick darkness they can almost be felt. This area, though within municipal limits, is now not only the congenial home of cholera and fever, but is also infested with wild pigs, which root up the ryots' crops, and the jungle is so heavy in parts that an elephant would be useful to beat it.

I agree then that much of this obstruction has been committed or allowed by Government, and I am sorry to say that a good deal of similar obstruction is still being permitted, more especially in the making of village roads by, or at, the expense of the Road Cess department. The promoters of these roads seem to have no idea beyond the convenience of going along dry shod. And yet the ordinary villager has often a shrewd idea of the principles of drainage. He knows well, no doubt by dire experience, the baleful effects of "pochiya jol,"—rotten water, and appreciates having the fresh Ganges water let in to flush his dirty ditches; and if you suggest to him to cut one of these obstructive roads, he is delighted. His instincts are so far still healthy and good; but no doubt under the repression caused by the work of the road cess and municipalities, he is by disuse losing his old instincts. The upper classes seem to have entirely lost theirs, and now readily barter away the necessities of life for its conveniences. This is what the *Reis & Kayet* must mean by imputing all the responsibility to the Government. The educated natives have lost the genius of living according to the practices of their forefathers, and unfortunately the education they have received in its place does not include the science of sanitation. They are now the greatest offenders in causing insanitation and bitterly they suffer for it. Perhaps they reach the climax of it when they build brick houses in their native villages. The bricks and mortar are of course inferior, and readily take up the damp and moisture of the jungly swamp which usually surrounds their paternal homes. The house proves to be a death trap; and after it has played havoc with a generation or two, the family, if any are left, return to the bamboo and thatch of their ancestors.

The question remains how can this condition of affairs be remedied? Well, if the state through its officers of the P. W. D. and the road cess are responsible for a good deal of it, they might certainly be prevented from creating more nuisances, and might be required gradually to remove the old ones, for which their departments are responsible.

Government is already particular in seeing that great water courses are not obstructed ; but why should there not be some sanitary authority to prevent even surface drainage being obstructed, and to insist on all roads having proper side drains, near human habitations, and bridges wherever wanted. In lower Bengal nearly all roads and railways follow the high banks of rivers, which are also the chief sites of villages. These if not properly bridged may seriously interfere with local drainage, and I can say, from my own observation, that the B. C. R. between Khulna and Jessore undoubtedly did so. This must without doubt act prejudicially on the sanitation of all the villages *en-route*.

Practically, too, I hold the State responsible for the bad condition of the municipalities. If a guardian allows a minor to grow up untaught, and without just restraint, he is rightly held answerable. Now the ills that afflict municipal areas are such that it requires first, knowledge that they are ills ; and secondly, administrative skill and energy to remove them. But both qualifications are as yet wanting to the class to which all power has been intrusted. It is ignorant, as I have shewn, of the principles of sanitation : and has no experience of self-government and next to no power of organisation. In England a common councillor is a member of a local board, has a much easier part to play, for there is a well defined sanitary law, which is worked through a town clerk, often a lawyer, and through a surveyor who is a civil engineer with a turn for sanitation. Each town too has a number of well educated doctors, one of whom is medical officer, and all of whom are more or less sanitarians. Then there are professional journals, discussing the numerous problems, and above all there is a sound public opinion which keeps the paid officers up to their duties. It is not expected, as here, that the honorary officers should undertake executive functions for which they may be completely unfitted and that in minute detail. They are merely the heads of an intelligent public, which sees that they get officers who understand their business and do not sit idle. But here there is neither an intelligent public nor fit officers. If, however, a commissioner happens to know what a nuisance is, and moves to abate it, he is as likely as not, to stir up a nest of hornets. That fearful curse of the country faction is immediately aroused ; and a man who complains of a dirty ditch may find himself the subject of a criminal charge. In consequence a department is urgently wanted to give rule and method to work in native towns. It is the only means of supplying the knowledge necessary to resolve, and the skill sufficient to carry out the resolution. For their own protection the commissioners want a strong outside

control, teaching and compelling them to do their duty by their charge. But the control must be a reasonable and continuous one, and such as will command their sympathy and respect. The absence of a sound public opinion requires a substitute. The present public opinion wants educating and supporting, and a "laissez faire" system in sanitary matters is as wrong in the light of these days, as it would be with respect to civil or criminal justice. How then can Government direct and educate municipal commissioners without depriving the community of the voluntary aid of the intelligent and public spirited? The difficulty of the problem lies in finding the tutor, and in defining the method of his direction. The district officials cannot be entrusted with the task, for they are incapable in every way. It could only be done then by having a special department, or rather putting the present one as represented by the Sanitary Commissioner on a satisfactory footing.

Now before the State could assume direction of municipal action, it would have to lay down the lines on which its direction should be based. Some practical rules would have to be adopted, and they naturally would rest on the plainest principles of sanitation. The first requisites, as I said before, for any community are pure air, pure soil, and pure water. But the attainment of these is so environed by every circumstance of common life, that to have determined so far is not to have made much progress. The next position is, that the state of the soil makes the air pure or impure. It is either water logged, exhaling the gases of all the decaying vegetable and animal matters in it : or it is dry and porous, and the organic matters are gradually being oxidated, and the soil thereby rendered a laboratory for the manufacture of air fit to sustain human life. If the above represents a fact, and scientific men tell us it does, the *first* requisite of every municipality is drainage, for no other investment of sanitary labour gives such high returns. Even when the soil is dry, patches here and there may be defiled and be exhaling bad gases ; but what is that compared to the whole air-magazine being bad, as it is when a soil, rich in organic matter, is water logged. The mere presence of water of course is not unhealthy provided it is clean, or if dirty, is not allowed to stagnate, for the oxygen of the air is gradually purifying it. But stagnant foul water is unhealthy in the highest degree. At least the above is taught by the first sanitarians of the day. Then let the first rule be that all municipalities shall have a simple system of surface drainage.

All the Delta of Lower Bengal has naturally a most perfect system of its own : and if it were not artificially obstructed, all the towns and villages would at least be flushed and cleaned out in the rains, and have much of the organic impurities

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carried into the beels and rivers to enrich cultivation and feed the fish. To remove these obstructions, and see that more are not made, should be the first duty of the municipal authorities. In villages, and in many towns too, one great means of obstruction is the causeway from the road to the house. A liberal use of earthen pipes would immediately remedy this and at a comparatively cheap cost. Then drainage should follow the natural incline of the country. This is an axiom laid down by sanitary engineers, and yet how often is it neglected in mofussil towns. Again, drainage is damaged and often prevented by excavations. This is generally owing to the householder being obliged to excavate on the only ground over which he has control. The "rights of property" prevent his going farther afield; and many a man has his head broken over a question of cutting earth, especially in Behár villages. In municipalities this might be remedied by sites for excavation being selected for a whole neighbourhood, which could sometimes be converted into tanks. But all this requires a care and organisation that will never be got from the present executive of municipalities.

Having established the first rule for all areas, namely, that there should be unimpeded surface drainage, a great point has been gained. In deltaic Bengal it would mean the "sum-mum bonum" for three quarters of mofussil area. At present the ditches are often a series of canals with different levels, and unnaturally high roads have to be made to keep the passenger out of the high level water.

Rule 2 might be a strict system of vital statistics. The value of the present ones can be known by the fact, that towns in 1882 shew mean ratios of deaths of the preceding five years, extending from 5 to 84 per 1,000, a ratio of 5 denoting that the people live on an average 200 years. Yet the mean of all the towns for those years is 31, and this is undoubtedly much below the real rate, which may safely be assumed to be as high as 40.

Rule 3 drinking water to be supplied as soon as possible.

The first three rules would be the full complement for many rural municipalities, and the rural areas of all: but how great an advance on the present system this means, can only be conceived by those who are conversant with the subject. Next would come rules for all bazaars, and parts thickly populated. These roads should be swept, rubbish removed, and if the people have not easy access to open fields or have no gardens, latrines should be established. No make-believe should be allowed as is now often the case; but the apparatus and staff should be carefully and strictly worked.

Finally would come rules to help and guide advanced and

important municipalities, subjecting them to professional inspection, requiring them to show yearly suitable progress in the essentials of sanitation, and controlling, when necessary, their expenditure on secondary wants.

I see by the reports that second class municipalities some times spend a fourth or fifth of their gross income on dispensaries, others the same proportion apparently on their schools; (I say apparently, because it may be that school-fees are included); and an infinitesimal amount on drainage.

Besides inspecting it would be the duty of the department to introduce the best methods of conservancy as ascertained by experience, to see that properly trained officers were supplied, the bigger towns being regarded as training schools, to engage skilled work-men at centres for outlying towns, to insist on the draught cattle and the various municipal plant being kept in good condition, and to apply constant tests to the vital statistics. In fact duties that would fall to the department would make a long list. To give an example of what I mean, Some years ago at Berhampore, when district officer there, I found that a public latrine had become an intolerable nuisance in a populous neighbourhood, owing to the iron cart used to remove the night soil wanting repairs. No local workman could be induced to do them, and the result to the unfortunate neighbourhood can be imagined. Surely there should be workshops available for all municipalities, and no apparatus should be introduced unless there are proper workmen at hand to keep it in order. If the conservancy of towns is to be undertaken, suitable men must have the direction. Bengalee gentlemen, of the pleader class, are hardly fitted by their instincts to manage this kind of work; and trained men should be put at their service to do it for them. Otherwise much money is wasted, and the cause of sanitation most unjustly rendered unpopular.

Again from an incorrect idea of the relative importance of various forms of conservancy money may be misapplied. Let me refer to the town of Furreedpore, the drainage of which be it remembered is execrably bad, and admitted to be so on all hands. The annual income is between 6 and 7,000 Rs. In 1882-83, 86 Rs. were spent on drainage, and 994 Rs. on the dispensary. In 1883-84, 79 Rs. was spent on drainage, while 1,296 Rs. was devoted to education and 1,204 Rs. to the dispensary. The conservancy shows a decent expenditure, namely, 1,355 Rs. and 1,333 Rs.; but the usefulness of much of this from a public point of view may be questioned, when it is discovered, that the work chiefly consists of cleaning private latrines, and that there are only two carts, each making only one journey a day with a bogus load. That in fact



the conservancy really consists of the municipality doing for payment, what is usually considered the duty of domestic servants. The health of the town is not therefore necessarily improved, for the amount of noxious matter removed is something very small, and that only to a short distance, where from the careless way it is treated, it again becomes a nuisance. Is it therefore to be wondered at, that Furreedpore is declared to be deteriorating in salubrity. It is true that the cause assigned is the recession of the Ganges. But the way the drainage is universally obstructed and filth allowed to accumulate, and *in consequence* jungle to increase, will equally explain it. Government is spending a very large sum of money in public buildings. It pays a large sum as municipal taxes, the chief European officials pay another 200 or 300 Rs. and the Road Cess keeps up the only important road, and yet from the municipal expenditure the Government and the European officials may be said to gain no advantage at all. There is not a road in the place except the Road Cess one fit to drive upon. The place is deteriorating! Is it any wonder when the state of the drainage is considered. Will Government look on at this deterioration, this folding of the hands, and thus sin against humanity and its own interests. Life in Lower Bengal stations is gloomy enough already, and if European science is not to be allowed to improve them, matters promise to go from bad to worse. I believe that by judicious use of the municipal income, proper drainage, and therewith wider and better roads might be introduced in the course of a few years. At present most of the roads are high and narrow with undrained ditches. Though the sanitary commissioner lately pointed out this defect, some of them are now being re-metalled and insanitation is thus being perpetuated.

I only give particulars about Furreedpore, because I happen to be on the spot. The sanitation of other places is I am sure equally bad. The plea I know is, that there are no funds; but I have shewn that even the present funds are misapplied; and what will be thought of such a plea when it is known that the municipal rate is  $\frac{1}{2}$  per cent. on income. That is native gentleman with 100 and 50 a month pay 8 annas and 4 annas. I will not assume that a higher rate would not be willingly levied if there were sanitary knowledge enough to point out an efficient way of expenditure. At present municipal commissioners sadly want education in the latest born science, and to be taught how to walk in it's paths. A pleader will go home and spend hundreds on his Durga Puja festival, but grudge as many rupees or improving the health of his household by sanitary measures. Many Englishmen are just as bad, being equally ignorant, but fortunately English public opinion

is more advanced, and sanitary cleanliness is becoming an instinct among them. But I see very few signs of the formation of such a public opinion out here, and it would be criminal to placidly allow all mofussil towns to await its advent.

Finally comes the question, how such a department, as suggested, could be organised. The principle of it would be, that Government through its sanitary commissioner should abandon its rôle of only offering advice, and should assume that of insisting that its advice should be followed. The law not only authorises such a position, but presumes that Government will insist on the commissioners performing the duties "imposed on them under this or any other Act:" for Section 64 gives it the power to take over the whole management on default being made. Under the following sections the Local Government is the sole judge of what a default is. Consequently if Government held that drainage, or any other form of sanitation was inadequately performed, Section 64 would enable the compulsory power to be applied. But practically it is found very difficult to pronounce what is a default, and the difficulty will remain till there is more precision about the requirements of towns. The higher executive authorities are somewhat inclined to consider an interest in mofussil sanitation as a "fad," and everything as yet to be too empirical for their interference. Every municipality is therefore allowed to go its own way, and the deputation of a sanitary commissioner to inspect them is something passive, rather than active, the only decent way in fact of doing nothing. To get over the undoubted difficulty of sanitation being very experimental, I have suggested that at first only the plainest rules be adopted, and that they be enforced under close supervision, so that a school of study and experiment be formed.

For this end the sanitary commissioner would want qualified assistants to act as inspectors, to enforce his orders, and to be a connecting link between him and the municipal overseer. Otherwise the "*vis inertie*" of the committees could never be acted on. Under the present law, I believe, no contributions could be levied from the municipalities to pay for such a staff; but the object would be gained, if an arrangement could be made with the very large towns, such as Dacca, Patna, Burdwan, Bhagulpore and Cuttack to engage competent engineers, native or European, to take charge of their own sanitation, and to inspect and control that of the smaller towns, which would pay a quota of the salaries. Such men by study, practice and experiment would rapidly become sanitary engineers, and the important department of public health in urban areas, which is now relegated to the care of native gentlemen necessarily entirely ignorant of the subject, and to

lazy and incompetent overseers, would be dealt with in a manner worthy of its importance. The sanitary engineers at the large towns would train overseers for the small ones, and keep up a workshop for all municipal plant. They would receive and check all returns, and see that the very first principles of sanitation were universally adopted. Professionally the town overseers would be under them—though still directly under the control of Chairmen of the committees. If the latter had any complaints of the overseers' technical work, they would bring it to the notice of the engineer.

To carry out the above would, under the present law, require the consent of all the municipalities, for it would involve a payment towards the salary of the sanitary engineer, and the resignation by the committee of the powers of appointing and controlling their overseer. I am sure nearly every chairman and vice-chairman must feel his inability, from lack of time and want of experience, to undertake this complete control, and surely the patronage of appointing an overseer is not so very sweet. A little extra taxation, especially where it is now only  $\frac{1}{2}$  per cent., could easily be borne; and the advantages gained would, I am sure, be very great. The overseer, if at all kept up to his work, (he of course would have nothing to do with the collection,) could not only see that sweepers and mehters did their work, that roads were properly made and drains cleaned, but also that vital statistics were accurately reported. Much of the bad results of present municipal management is due to the incompetency of the overseer. This is not entirely their fault, for they get no good training and no proper superintendence. Few of them know the first elements of sanitation. Many too are old and superannuated, and hold their posts by the kindheartedness of their employers. Under the new regime their professional knowledge would be tested, and their experience widened by judicious transfers. Now they become old and grey headed in the service of one town, during which time they have learnt nothing. To aid and encourage sanitary reform, it might be well to establish a monthly gazette in which to record vital statistics, to publish the results of experiments, and generally to *make known ascertained facts* with reference to sanitation. As a medium of advertisement, too, it would be useful. To those who know the practical difficulty often experienced in getting municipal sweepers, this kind of co-operation will be very grateful. At home congresses are held, and would it be so very sanguine to expect the same could in time be held here too? Moreover if the subject became a study amongst liberally educated natives, and people could take heart by seeing sanitation successfully applied, knowledge on such vital matters could be popularised by the press, by

lectures, and by pamphlets. It seems almost incredible that at present, no two municipalities are, to the best of my belief, exchanging experiences. They are all stupidly stumbling along the same rough road of experiment, and no one learns of the other. They, of course, never learn anything, not even from their own experience ; for it is not recorded.

Unfortunately under the present law it is not incumbent on the commissioners to keep vital statistics, though they have mostly begun to do so, the duty having formerly been performed by the police. The statistics, as hitherto kept, have been worthless ; otherwise much light might have been thrown on the comparative healthiness of various parts of the same town. For instance, if it were shewn that deaths were invariably more numerous in an undrained than a drained area, the importance of drainage would be scientifically proved and legislation could be framed accordingly. Now it is as hard to find the well drained area, as the one where mortuary statistics can be relied on ; and I fear the scarcity of both will continue if the theory of absolute self-government for people in their pupilage is maintained. The appointment of professional men to act as engineers and overseers, and a systematic study of sanitation are absolute necessities, if native towns are ever to have the benefit of modern sanitary science. Sanitary primers for village schools are excellent things (though I think those now used in Bengal are not as good as they might be) : but example is better than precept ; and there is more chance of sanitary ideas spreading, if Government can show better results in the town than if the subject is only taught in the schools.

- Finally I would remark that the registered death-rate for Bengal towns in 1882 was 32 per mille ; and as the registration is undoubtedly most imperfect, it may safely be assumed that 40 is about the true figure. The death-rate of London in 1883 was 20·4 and for the large towns of England 21·6. In the Government resolution on municipalities, we are told that in the town of Rungpore, before a system of drainage was introduced, the death-rate ranged from 34 to 39 ; and that in that year, that is after, it was only 24·82. Surely such a proof as this should induce Government to insist on some system of drainage being introduced into every town. Undoubtedly the present high death-rate interferes most materially with the advance of civilisation, and Government can well afford to spend both time and money in discovering first the causes of it, and then the means to diminish it. A mere increase of population without increased longevity, may be a calamity ; and plagues and famines may be the result ;

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but an increase of the span of human life, and that by removing the causes of sickness and death, must at least be regarded as purely beneficial. Government cannot therefore remain satisfied with a benevolent attitude towards municipalities : but it must actively help them to do their duties. I have tried to show that under the present system they have nothing like the same opportunities for counsel and guidance as similar bodies in England. All I suggest is, that they should be confederated, so as to obtain such advantages : that thereby all *acquired knowledge* should be rendered available, and that a scientific method should be followed of studying the whole subject by a record of practice and experience.

F. H. BARROW, B.A.

## ART. II.—TWO EMPIRES: ANOTHER SIDE OF THE SHIELD TO MR LEE-WARNER'S.

**I**N a recent number of this Review, Mr. Lee-Warner has contrasted the state of the British Empire in India with that of the Roman Empire. The contrast, as one might easily conceive, is altogether in favour of the former. A civilian would hardly be true to his salt if he did not see the work undertaken by his brethren in its best light, and there can be no such inspiring belief to a worker, as that the work in which he is engaged is the most justly planned and the best executed of all works, which have ever been wrought in this world. The two points on which he lays chief stress in his contrast are, the cruelty of the ancient Romans compared with the lenity of the modern English, and the tribute paid by the provinces to the city of the seven hills, contrasted with the disinterested policy that spends the revenue of India solely for the benefit of India. He repudiates altogether a statement taken, I presume, from W. T. Arnold's little book on Roman Provincial Administration, a book to which I am indebted for many of the details of this article, to the effect that if we are indignant with the Roman rule, we ought to be still more indignant with our rule in India. This expression is used, I may remark, by Mr. Arnold not with reference to the fiscal burdens imposed by the Romans and the English respectively on the races subject to their sway, as one would naturally conclude from Mr. Warner, but to the personal disabilities to which these latter were, or are, subject. To this expression of Mr. Arnold's I shall revert, but for the present it is sufficient to say that I do not write for the purpose of proving or disproving the statement. I do not intend to make Mr. Warner's article the text for a controversy; I believe it to be a very incomplete expression of the facts; to have intensified all the colours, making the black appear very black and the white very white, and as I proceed I shall now and again point out where this is the case; but my main purpose in this essay is rather to point out parallels between the two empires, and to see what great lessons we may learn from the history of the mighty Roman empire,—the mightiest empire that the world has ever seen. That this empire was founded on something more than robbery, was managed with wisdom and some degree of equity, is evident, if the test recommended alike by Gamaliel and Darwin be employed. It survived. From the time of our first wars with Dupleix in Madras, from

the days of Arcot and Plassey till now, hardly a century and a half have elapsed ; but from the days of the Punic War, when the Romans first made a permanent settlement beyond the seas, till the latter end of the third century after Christ, when the Goths became first really formidable to the empire, five centuries passed by, and if we are to take as our terminus the fall of Constantinople before the Turk, the day of the Roman empire may be counted as something like seventeen hundred years. Who can say if three centuries from hence our British empire in India will survive ? Till then, let those who are buckling their armour on, not boast as those that take it off.

Before entering on my main subject, I must briefly advert to one or two considerations which are absolutely necessary for understanding the matter before us aright. The first concerns our sources of information concerning ancient Rome. A large part of the best known of these can hardly be taken, unfortunately, as strictly reliable. Take for an instance Cicero. Cicero was a Roman lawyer, and his speeches that have come down to us are largely speeches uttered in the law courts. The speeches against Verres for instance, from which Mr. Warner quotes, are speeches for the prosecution in a suit by the Sicilians against Verres. Can these speeches be taken as the exact truth ? Does any body for instance acknowledge Burke's speeches against Hastings as giving a correct view of the transactions in which the latter was engaged ? And yet Burke was no professional lawyer as Cicero was. Better illustrations still would be the speeches of the lawyers for the Crown and the defence in some great political case : in O'Connell's case for instance. Would any one take either side's statement as impartial ? And yet this is what many would have us do with Cicero's impassioned orations. Verres certainly was a bad, probably, a very bad man ; but it would be as unsafe to take his character as painted by Cicero, as it would be to take Burke's representation of Warren Hastings. Again, besides cases such as that of Cicero, where the speaker is struggling, so to speak, for the verdict, several of our great Latin authorities had special causes of prejudice. Not to mention Juvenal, a professed satirist, Tacitus is a very good illustration of my meaning. No one accuses Tacitus of misstating facts, but of distorting them, of allowing one only to see the one side of the shield, he is undoubted guilty. His aristocratic prejudices prevent him from seeing the good that came from the rule of the early Cæsars. And yet good there was as I shall afterwards try to shew. To take Tacitus and Juvenal as our sole guides for the period of the early Cæsars is as unsafe as to use Hume as our authority for the Stuarts.

Another point that I wish to point out is, that the Englis

race, as a race, does not, and has not for centuries been a cruel race in the sense that the Romans were a cruel race. That they have been free from that delight that springs from the pain of others can hardly be said. Bear-baiting, cock fighting show that the taste of the average Englishman was not, a very short period gone by, of the nature that abhorred the infliction of unnecessary pain. Instances too occur—some of them may be read in Mill's history—where Englishmen, having the power, have through avarice or in order to gratify some other passion, reverted to deeds of most cold-blooded cruelty. But the English are not and never were cruel in the sense that the Romans were cruel. The latter's delight in the amphitheatre, his butcheries of conquered races, sometimes, indeed, the result, of policy, but also sometimes springing out of mere brutality, have no counterpart in the Englishman's mind or history. It must be remembered, indeed, with reference to the wholesale exterminations in which the Romans sometimes indulged, that these wholesale massacres were commonly on the borders, and that the provincials were little troubled by them.

The origin of this difference in feeling between Roman and Englishman may be partly natural; a greater part of it, however, is doubtless attributable to Christianity. To Christianity, too, must be assigned a part in the formation of the doctrine of "rights" that now is so strong in the world, and which influences largely England's dealing with India. This doctrine of "rights" belongs to the Stoic as well as to the Christian. Its great modern development is owing, however, to the teachings of Rousseau and the Democratic School that has succeeded him.

It finds its expression in the American Declaration of Independence. At the present time it has incurred the opposition of the *Times* which denies that any one has any rights save what the law gives him, a statement which when one uses right, in the juristic sense, is doubtless correct, and which enables the *Times* to win a barren victory over Mr. Chamberlain, but which in the broader sense is certainly opposed to the opinion of most Westerns, and I may add many Easterns too. Men believe that they have certain rights to which they have not attained and towards which they will struggle, and hence all modern democratic theories. It is very needful to keep in mind this theory of rights, for it is one of the chief features of the policy of the people of England with reference to India. Local self-government, such as it is, equal laws, all result from this feeling.

A last point by way of preface which points out the exact scope of this article must be here mentioned, and I shall then proceed to my main subject. In discussing the results of one nation conquering another, two points of view may be entertained. Either one may discuss the effects that the



conquest has on the conquered, or on the conquerors themselves. With the latter alternative, I shall have nothing, save perhaps, incidentally, to say. My subject confines me to the former alternative. I propose after briefly running over the history of the growth and organisation of the two empires, to institute a comparison between the treatment of the provincials, or rather the subject races, under the two régimes, to see in what main points this treatment corresponds or is different in the two cases, and then I shall point out briefly what I believe to be the main lessons that we may learn from the Romans of old.

Let me enter then into my subject. The Romans entered into their career of conquest beyond the bounds of Italy itself in the latter part of the third century before Christ. Previous to that time they had been engaged in consolidating their rule in Italy itself, just as the rulers of England had for centuries before the rise of our Empire in the East, been engaged in welding Great Britain into a harmonious whole by the reduction of the power of the great feudal barons, and then by uniting with England the countries of Wales, Scotland and Ireland. At the time of which I am speaking, Rome found itself confronted with a rival, powerful in trade, on the sea, and in war, just as England found itself opposed last century to France. And just as it was English rivalry with France on the Coromandel Coast and in Bengal, our contests with Dupleix and his coadjutors that started England on its triumphant career in India, so was it out of the Punic Wars, out of the rivalry of Rome and Carthage in Sicily, Sardinia and Spain, that the Romans were first forced to the idea of a foreign empire. Neither England nor Rome at starting desired such an empire. The East India Company desired dividends not conquests, and the Romans of the time of which I am speaking, seemed undesirous of founding settlements in foreign lands. From the Punic Wars, came the Greek Wars, that ended with the reduction of Macedonia, and from these wars again came the first conquests in Syria and Asia. Then came the Mithridatic wars, into which the Romans were, one might almost say, driven, just as the English were driven into the Punjab wars. The result in both cases was the same: the absorption of a large part of the state of the aggressive party into the empire of the conquerors. The conquest of Gaul, of parts of Spain, and of other outlying districts was the consequence of the necessity of repressing troublesome frontier tribes in the only way that they could be effectively repressed, *i. e.* by the conquest and annexation of their country, a policy which the English have carried out again and again, and are now carrying out with respect to Burmah. There seems to be also a necessity laid on all expanding states, not physical indeed, but

moral, which gives them no rest till they reach certain natural boundaries, such as the Romans had on certain sides of their empire in the Rhine, the ocean, and the Euphrates, which it is hoped the Russians will find in the Paropamisus and the Hindu Kush, and which England has in India in the Himalayas. The period of conquest is almost always one of immense suffering for the conquered. The old bonds of society become broken, and all administration becomes out of joint. A period of anarchy supervenes. Such a period existed in more or less force in the Roman provinces till Julius and Augustus Cæsar assumed all power in their own hands. Such a period also existed in British India from the days of Plassey till almost the close of Warren Hastings' Governor-Generalship, and in a more mitigated form, till far into this century. One prominent feature of all such periods is the extortions of those in authority. During what I may call the Roman period of anarchy, the proconsuls, proprætors and others that ruled the provinces were not paid. Roman patricians would have rejected with scorn the idea of being directly paid by the state. Indeed, so far did the feeling go, that for a very long period, the Roman lawyer was not supposed to receive a fee from his client, a feeling that survives in the modern English idea of a barrister receiving not a regular wage for his labour, but a *honorarium*. But though a Roman objected to receive pay, he had no objection to plunder. Mr. Warner has quoted Cicero's statement concerning Verres, how in three years he succeeded in amassing a sufficient fortune for himself and his dependants, in addition to the wherewithal to bribe his accusers. English officials in the East have never, to do them justice, thought themselves too grand gentlemen to draw their pay. But the pay of civilians under the East India Company before the days of Lord Cornwallis was small, and they adopted the same method, under the variations suggested by circumstances, that Roman governors of old did, *i. e.* they plundered. The chief distinction to be remarked is, that whereas the Roman was a high-handed plunderer, taking often forcibly what he wanted, the Englishman of last century pursued the more peaceable but equally lucrative method of bribes, monopolies, and the thousand and one different ways of amassing riches open to a powerful individual in an Eastern State. Benfield was probably the equal in rapacity though not in cruelty to Verres, and he would be a bold man who would assert that the financial consciences of the average members of the Madras Council from 1750 to 1780, or of the Bengal civilians from the time of Plassey to the accession of Warren Hastings, were one whit purer than those of the Roman Governors of old. With Lord Cornwallis came the

introduction of large salaries, from which event illegal shaking of the pagoda tree rapidly diminished, till now, in the higher classes of the services at least, it may be pronounced unknown. So shall we afterwards see that with the introduction of paid governors under the empire, pecuniary corruption very largely diminished.

Another feature of these periods of anarchy is the prevalence of brigandage. Wars drive immense numbers from their regular habits of husbandry, and every one that loses his all, finds his one resort in the road. This feature was most noticeable in British India after the Mahrattas wars, when the Pindaris, and their successors the Thugs, gave our government enormous trouble. Dacoits and other robbers were a trouble to us before, but it was only in a time of comparative peace that adequate notice could be taken of them. So, too, was the case in Rome of old. The frequent wars, the cruelties toward slaves, made brigandage as popular an institution, as it was in the early periods of Greek history of which Thucydides makes mention. The disturbances caused thereby culminated in the establishment of the Cilician pirates, who called out the entire force of the republic under Pompey, before they were put down. The Cilician pirate war is a very close counterpart of Lord Hastings' Pindari campaigns.

There is one evil of which we read much less in the early history of the provinces than we do in our histories of early British Rule in India. The Romans never instituted a tribunal, which did so much harm in the provinces, as the Supreme Court did in Bengal. It is almost impossible to find in a Roman historian lines charging any of their institutions with instituting a reign of terror as terrible as that so graphically described by Macaulay. In the matter of civil justice, the Romans were inclined to leave the provincials alone in all cases, save when the rights of Roman citizens might come in question.

After the Republic came the Empire;—after anarchy came order. The most beneficial and the most lasting work of the early Emperors was the organisation of the provinces. I see it noticed in the reviews in the last volume of Mommsen—a volume which I have not seen myself—that the great German historian considers Tiberius as one of the best administrators that the world has ever had. Certain it is that the provinces regained rest, and settled down to the regular habits of peace. They were divided into two sets, corresponding in some respects to our Regulation and Non-Regulation provinces—the Senatorial and the Imperial. The latter, by common consent, seem to have been the better governed. New conquests, save in Britain and one or two of the outlying portions of the empire, were hardly undertaken. The empire seemed to have reached its

natural limits. There were no great aggressive empires on its borders till the Sassanid monarchy arose in the third century. The process of Romanisation went rapidly on chiefly through two methods; first of all through the gift of Roman citizenship being widely given to the provincials, and secondly through the *jus gentium*, the law governing the relations between the Roman citizen and the provincial being extended and systematised. The prosperity of the provinces increased, and the days of Trojan and his successors have been termed by the English historian of the decline and fall of the Roman Empire as the happiest in the history of mankind. Gradually this sunshine of prosperity became overcast; with the establishment of the Persian empire, a formidable aggressive enemy established himself in the East; and the decree of Caracalla, making all the provincials Roman citizens, a decree chiefly dictated by financial necessities, failed to raise the provincial to a sense of the responsibilities of a Roman citizen. The Goth, too, became a formidable enemy; by the middle of the third century he became troublesome; within another twenty years a Roman Emperor had fallen against him on the field of battle; and though the military genius of Probus and other Roman Emperors managed to stem the torrent of barbarian invasion, and the new civil organization of Diocletian and Constantine gave new life to the empire, still it was a very different life from the vigorous life of the earlier Roman Empire. With its later history I have but little concern. The Empire of the West was soon overwhelmed by barbaric forces, who were themselves, however, largely impregnated by the ideas of the empire they had conquered, and when it rose again, rose a very different creature from the Empire of Julius and Augustus. In the East the empire maintained itself for a much longer period, but ceased even as far as its official language was concerned to be Roman by the end of the sixth century. The Byzantine Empire in its civil administration, in its all pervading fiscal arrangements, bears certain striking likenesses to the British Empire in India, but of these I do not intend to speak. The careful reader of Finlay can hardly fail to discover more than one of these parallels.

Turning now to the great questions that arise concerning the Roman and the British Empires, the first that presents itself is, whether subjection to these empires has been more advantageous to the subject races than a continuance in their former stage. To answer this question it is important to determine what this former stage was. Let me here quote Arnold;—"The practical question, of course, is as to whether the conquered country had a free, national, prosperous life before its conquest, and whether or not that conquest has given it a life more worth having than the

old one. We justify our rule in India where we are certainly aliens and interlopers to a greater degree than the Romans were in any of their provinces, by pointing to the peace and security we have given it, by dwelling on the endless petty wars and detestable tyrannies of its innumerable princes before our rule existed. In fact, we say, that the previous state of things was so bad that our rule is a desirable substitute. The Romans would have said, and did say, pretty much the same about their own rule; and it is quite impossible to give a fair judgment of that rule unless we have some clear idea of the state of things which it replaced." And then he proceeds to discuss briefly the antecedents of the chief Roman provinces before they came into Roman hands. The result of the discussion is this, that with the exception of Macedonia, in the wars with which Rome was not the aggressive party, no national life was crushed for the very good reason that there was no national life to crush. When Mr. Warner quotes the speech that Tacitus puts into Civilis' mouth concerning the axes, the rods and the other manifold means of oppression under the Roman régime in Gaul, it should not be forgotten that the words are not those of Civilis, but those of the historian himself, it being a recognised privilege of ancient historians to compose their characters' speeches on the principle of putting in their mouth not what they did say, but what a rhetor of the schools would have said under similar circumstances. And even if we had the very words of Civilis, what would they prove? A rebel is not likely to paint the conduct of the master from whom he rebels in the most favourable light. If we had extant the speeches of any of the mutineers at Delhi, in what colours would the English domination of India be painted? The native press at the present day shows us how many of the natives look upon our rule.

Apply this principle of Arnold's to India, and what result do we get? In what condition was India, when the English commenced their conquering career? Was there in existence a strong national life? Was it a well-governed, contented country that came into our hands? The briefest reference to the facts of the time will be sufficient to answer these questions.

When the English began in the last century to lay the foundations of their Indian Empire, the one vigorous power in the country was the Mahrattas. The great Mogul Empire was crumbling rapidly to pieces. Its period of power had been marked with many acts of cruelty, and stained with much occasional oppression, but it was a strong, well-organised power, the lands comprised within it, save those on the borders, had the blessings of peace, and as far as

we can learn its subjects were fairly prosperous. But for good or for ill its time had past. The Mahammedan decay, of which we now-a-days often read much, may have been accelerated by the British rule, but it certainly had commenced before that rule. The one powerful Mahammedan family with which the English have had to contend has been the Mysore family, and the reigns of Hyder Ali and Tippu resemble rather the rule of the Mahrattas than of the Delhi princes. And what of the Mahrattas themselves? Their own native province was doubtless prosperous, as any country would be prosperous that was receiving into it the spoils of foreign countries. But their rule was neither more nor less than organised robbery. The system of chauth, the large marauding expeditions which they conducted into almost all parts of India, were an unmitigated curse to the natives of all India save those of Maharastra itself. One would have felt pity if any foreign power had subverted the empire of Akbar or Shah Jehan, but who, save a Mahratta would grieve at the overthrow of Daolut Rao Sindia or Jeswant Rao Holkar? It was no highly organised commonwealth that fell before the conquering arms of the English; there existed, indeed, a complete administrative organisation owing to the village system of the Hindus and the governing skill of the Mahammedans, but the real power in the country was in the hands of petty tyrants, deliverance from whom has not been the least of the benefits conferred by the English on the natives of Hindustan. Even in the Punjab, the country was only taken over when the Government became completely disorganised, and there was no internal power strong enough to retain the turbulent soldiery. In one part of India comparative order seems to have reigned last century, *viz.*, in Rajputana. The chiefs there seem to have been strong enough to have maintained their states in order, and at the same time to have abstained from being a nuisance to their neighbours. But Rajputana has been almost untouched by British rule, and while in almost every other part of India, province after province has become British, the Rajahs in Rajasthan rule over the same territories that their ancestors have ruled over for hundreds of years.

These reflections lead to a query concerning the future. Will the natives of India under British rule ever coalesce and become one nation, in the sense that the English, the French or the Germans are one nation? The Roman Empire in the West almost obliterated the old nationalities that were amalgamated within it, and the new nationalities that have risen from them show indelible marks of Roman influence. Roman law is largely the basis of all Western legal systems, with the exception only of the English, and that even is largely tinged with Roman ideas.

The languages of France, Spain, Portugal and Romania are founded on the Roman tongue, and Latin has been for ages the canonical language of the largest section of the Christian Church. Systems of education and of government have been largely moulded in Roman models, and the roads that the Romans built in their Western Provinces are still the backbone of the internal road systems of various countries. The Holy Roman Empire may not have had the influence ascribed to it by Freeman and others of what may be called the Modern Teutonic school of history, but no one can read Dante without feeling how deeply ideas of the Roman Empire had entered at least the Mediaeval Italian mind. In the East the lasting influence of Rome was not so great. It is not, indeed, untraceable, Mahammedan law for instance being in many points so close to Roman law, that the connection cannot be purely accidental, but Roman influence had in the East to contend with a civilization as tenacious and more ancient than its own. Alexander of Macedon conquered Western Asia a century and a half before the Romans put foot in Asia, and the Hellenism which he did so much to promote, suited more the genius of the races of the countries to the East of the Mediterranean than the more robust but less flexible civilisation of Rome. It was in the more savage races of the West that the latter found its most fertile seed ground, just as the results of British rule in India are in many ways more strikingly seen in the Sonthal and the Assami and other semi-savage communities than in the Mahammedans and in the higher Hindu castes.

Returning again to our question concerning India, it would be a rash thing to prophecy whether the Mahammedan lion and the Hindu lamb will ever lie down together, whether the religious and other animosities that still exist in the native mind will ever be appeased, and whether out of the heterogeneous races of India, one nation will be formed, even in the sense that the Roman and the provincials of the time of Caracalla were one nation. There is one difficulty in the way, which was not present in ancient Rome, the religious difficulty. The subjects of the Roman Empire differed in religion, but with the exception of the Jews, who were politically comparatively insignificant, and the Christians, who, in the most flourishing time of the Roman Empire were few in number, they were all polytheists, and had the feelings of toleration that polytheism engenders. Now leaving aside the Christians, who at the present time anyhow are a comparatively insignificant factor in the native populations, the Mahammedans are a non-polytheist race, intensely zealous in the propagation of their creed, and sincerely believing all beliefs save theirs to be false. If, however, the people of India do become one nation, it may be safely prophesied that

the main lines of their future civilisation will be neither Hindu nor Mahammedan but English, Hinduism with its caste system, with its non-inclusion of converts within its gates, at least within its more sacred gates, can never be the basis of a nationality, within which shall be gathered races of other beliefs ; it may be a philosophy, a rule of life, it can never be the basis of a united people. Mahammedanism, also, though it has succeeded in ancient times capitally as a welder of nationalities, is too theocratic, too intolerant, ever to be a foundation-stone to such an edifice as an Indian nation would be. The Western system of civilisation then alone remains. Whether it will succeed in this task is doubtful ; that it will go far towards succeeding is undoubted : English education has spread over the length and breadth of the land, and even where it has not, English ideas, by means of the rail-road, the telegraph, and a hundred and one other agencies have spread themselves. One might as well attempt to put back the clock of time, as to confine a native's education, as I have seen it proposed, to the study of the vernaculars. For good or for evil, the ship has left its moorings and put to sea ; where it will anchor is only known to Him that rules the nations of the earth. Take for instance one notable sign of the times, the English delegates at present in England with an intention to influence the general election. In one way their talk of representing two hundred and forty millions of people is absurd ; they simply represent small classes in the Presidency towns. But they, and people like to them, are the leaders of the people, and ideas almost always permeate the masses from above. It has only been by degrees that the Copernican astronomy has been accepted by the people of the West ; it ran its way first among the scientific, then among the cultured, and finally amongst the masses ;—and the same future one may prophecy for English political ideas, now but dimly seized even by the leaders of native thought.

The wheels of God grind slowly,  
But they grind exceeding small.

From the question of national existence, I now proceed to the question of finance ?

It is here that Mr. Warner finds the greatest contrast between the British and the Roman Empires. The latter extorted from the provinces an immense sum of money, the so-called tribute, so he says, to feed the pauperised population of the capital ; England on the other hand not only extorts nothing, but actually, as in the case of the Afghan war, puts its hand in its pocket to help its poor dependency. Now the facts are undisputed that England charges nothing in the revenues of India save what may be, under some pretence, styled a legitimate charge. Any thing like a direct tribute, such as that which provided Rome with



bread and circuses, is unknown. But a small glance at history will show how unfounded would any claim be for superior morality on the part of the English, and especially on the part of the English governors of India, on that account. The tribute assumed the form it did for the very simple reason that, when the Roman conquests began, the Roman people were in reality, and till the end of the conquests, in name, if not in more, the rulers of Rome. Distribution of bread, lavish games, grand shows, were the one way of bringing home to the mind of a member of the Roman proletariat that he was one of the masters of the world. These things were a visible sign of the Roman's mastery, and as he had the power of making consuls and praetors, tribunes and aediles, the uses to which a certain portion of the tribute was put were simply a means of flattering King Demos. And if it be asked, why with the extinction of the voice of the people in the choice of the magistrates, this form of bribery was not extinguished too, the answer is, that the power of the mob, as long as the seat of government remained at Rome, never did become extinct. In the days, during Julius Caesar's absence in Gaul, when Pompey's power was greatest, and when he named most of the officials of the state, he found the mob more than once too strong for him and had to remain secluded in his private house. In the commencement of Tacitus' annals, there occurs a remarkable passage, in which he points out that the price paid by the Caesars for the destruction of the political power of the people, was the present of cheap markets and games. In England, on the other hand, until the present year, the people have never really been the ruling power. The benefits of English rule in India to the classes that have held the governing power in England, have been greater by means of the room India has afforded for members of these classes to acquire fortunes in it, the scope it has offered for trade, and the favourable investments found in it, than they would have been by any tribute either paid into the British treasury or expended in presents to the British proletariat. And as to the governing class in India, though save in the first twenty or thirty years after Clive, when it was intoxicated by the opening of roads to enormous fortunes, it cannot be accused, as a class, of consciously forwarding its own interests to the evident detriment of India's, still it has never been noted as a class for great self-denial when its own interests have been concerned. From the days of Drake, Becher, and the hundred others that welcomed every change in government at Murshidabad as a means of receiving presents from the incoming Nawab, to the present day, when it is thought by some of the members, that the Civil Service is entitled to appointments of almost every sort, provided that a good

salary be attached to them; the abnegation of the governing class in India has never, to use the mildest expression, been painfully evident. When Mr. John Bright accuses the Indian bureaucracy of desiring new wars, new annexations, inasmuch as new provinces mean new well paid officials, he is not correct, in all probability, in putting forward this desire for new appointments as a consciously active power in the matter, but that it carries much weight to the many official minds, unknown in many cases to the official himself, is I think certain. The Indian Civilian can indeed hardly be blamed in the matter ; human nature being as it is, it is improbable that many would act otherwise ; but that this feeling of self-aggrandisement should be as successful as it is, is certainly a blot on the, in many ways, highly successful system of the Civil Service. And the large salaries paid to officials, are tribute paid by India, just as much as the money paid by the Roman provinces for the bread of the people of Rome. Whether a tribute is justifiable is quite another matter ; it may be argued quite fairly that no people will undertake the task of governing another gratuitously, but whether the payment made goes to the actual individuals that govern, or to the general treasury of the governors, matters but little to the governed.

That the salaries paid to our officials are really tribute to a large extent, is very evident if we ask whether the work done could not be executed much cheaper than it is. Take, for instance, the case of officials that proceed to the hill stations for a great part of the year. They have a climate in many ways equal to an English one, and yet, not including the Viceroy, the Lieutenant-Governors and the Commander-in-Chief, there are a number of them receiving a salary higher than that of the English prime minister, and as for the number of them that receive a salary superior to that of a Parliamentary Under-Secretary, it would take a rather troublesome enquiry to find out the number. Could not men be got to do the work satisfactorily at half the price ? And then in the plains, leaving outside of our calculation, the position of the Collector, which needs perhaps exceptional men, how much saving could be effected without seriously affecting the efficiency of administration, by substituting the natives of the country for the present officials. The Romans, as we shall see further on, stand in a very favourable light compared to us in this matter. But the real question concerning Indian finance is not whether it be right to impose tribute on a conquered nation or not, or whether we do impose tribute. What is more important, is whether our fiscal arrangements weigh heavily on the country or not. Now the most conclusive test of this is the general prosperity or want of prosperity of the people. This does not indeed

rise solely from light and equitable taxation ; equitable laws, influences of climate, and many other causes may be mentioned which have part in these results. Thus the miserable condition of a part of the Deccan a few years ago was more attributable, I believe, to evil laws than to any severity in taxation. But of all the causes that contribute to national prosperity, none perhaps are so important as the financial measures of the state. Now what was the result of Roman taxation in the provinces ? That it was not very light is certain. Finlay talks of the rapacity of the Roman rule and of its blighting influence on Greece, and that Roman rule did less good to Greece than to any other part of the Empire is certain. Mr. Warner waxes eloquent in his description of the heavy taxation extorted from the Asiatic Ryot. But take on the other hand the following from Arnold concerning the period of the early Empire. " These two first centuries of the Empire were for some countries the flower of their history. Asia Minor was rich and populous, and studded with innumerable cities. The immense sums which these cities voluntarily spent upon their aqueducts, amphitheatres, and other public works, were perhaps excessive and extravagant, but attest a grandeur of conception and a superb indifference to economy which could only have sprung from a great material prosperity. The same facts appear in Syria. There were 200,000 Christians alone in Antioch in the fourth century. Jerusalem had a population of 600,000. Egypt was inhabited by seven and a half millions of people, 300,000 of whom were settled in Alexandria. Strabo and Pliny give similar testimony as to Spain and Gaul ; and Africa in particular enjoyed a prosperity which has never fallen to its lot before or since. The Danubian Provinces were equally well off, and the towns both more numerous and more important than they are at present, while those that are still the most considerable, for instance, Widdin, Sistova, Nicopolis, are all Roman foundations." And what is true of the East is still more true of the West. Gaul, Spain, Britain. How greatly did they profit by Roman Rule ! Take the last named for instance. Under Roman rule, towns, such as London and York, came into existence, roads were run through the country, splendid buildings, as may be seen by their remains, were built, mines were opened up and agriculture flourished. If it be remarked that all these things are no evidence as to the prosperity of the peasant but only that the country was successfully exploited, I would say that they cannot long exist without a prosperous proletariat ; and that such tests are the ones on which we chiefly rely when descanting on the prosperity of India under our rule. It is very difficult to compare directly the condition of a peasant in one generation with his condition

in another,—wages, and the price of necessities, being very variable factors.\* But increase of population, of cities, and of trade can more easily be gaged, and from them a people's prosperity may be inferred; and in the West under Rome, during the first two centuries after Christ, were seen the same symptoms of increase that are notable now in British India. Another test of a good system of taxation is its flexibility, its power of increase under an emergency. How stands it in this respect with India? The highest authorities in Indian matters, amongst others, only the other day, the Secretary of State told us that the limit of taxation had almost been reached. With the exception of an increase in the salt duty, there seems to\* be no other measure feasible whereby a large increase of revenue is acquirable. So much was this the case, that when the Russian scare was on, it was found necessary to use the pruning knife in expenditure, cutting down here and there, and more especially in the expenses connected with Public Works, expenses, perhaps, the most likely to be ultimately profitable that we are incurring in India. Does not this show that despite our boasted disinterestedness, the British Indian Empire at present, like the Roman Empire of old, is taxed as at high a rate as it can well bear.

Before leaving this question of finance, I must revert one minute to the behaviour, as regards money, of the governors themselves. The Roman officials of the Republic were largely corrupt, just as the English civilians of last century were. At the present day, largely through the idea not only that corruption is wrong but unprofitable, as it would be silly to ruin one's career for a bribe which can hardly ever be commensurate to the risk incurred, the services have become exceedingly pure, corruption and the accompanying oppression being left to the hands of the policeman and the hundred and one other petty and underpaid native subordinates. The same influences that have operated in the English civilian mind were not without their force on the Roman. "The splendid career open to a legate of capacity, who was favoured by the Emperor, would be endangered if not forfeited by yielding to the mean covetousness which had disgraced the governors of the Republic. A man had more to gain by keeping his hands clean than by fouling them." Such is Mr. Arnold's statement. That cases did occur so much oftener under Roman regime than they do now under British, may be assigned to two causes, the higher morale in the English service owing largely to the influence of Christianity, and secondly the better control that the English Government

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\* This, it must be remembered, was written before the Income-tax—a tax only calculated to produce £600,000 was mentioned.

has over its officers, owing to improved communications, than was possible in ancient Rome.

I now turn to the municipalities in the provinces during the Empire. These bodies were the great means of Roman government. Wherever former Greek *poleis* were found they were preserved, and where nothing resembling them was found, the Romans created municipalities, not necessarily at once, not all in the same way, but gradually and in different manners, till the whole Empire was studded with them. In founding these municipalities, the Romans shewed the greatest degree of political wisdom,—very unlike the folly, sprung from ignorance, that caused the English from the time of Plassey, almost I might say till the Mutiny, to attempt to destroy the local institutions of India, that served for purposes of political administration. In Egypt, where administrative institutions, eminently fitted for the purposes for which they were designed, already existed, the Romans changed but little. In Greek cities and colonies, the change was chiefly from democracy to oligarchy, or as Arnold expresses it, timocracy. In the West, where virgin soil was largely found, the model on which municipalities were founded, was Rome, and popular election of magistrates seems to have remained in existence in these municipalities long after it ceased at Rome itself. To these municipalities was left a large part—probably even a larger part than in England—during the two hundred years after Actium—of the local government. Their first duty, and one in which the Romans naturally would most insist, was the collection of the Imperial revenue. The work done by our Indian collectors was performed, and performed as far as we can tell, well, by these municipalities, to which were attached tracts of country around. Some of them were much like some of the rural boroughs that existed formerly in England, or the groups of boroughs in Scotland—combinations of a large number of small townships. Almost all matters of internal administration were left to the municipal authorities. They looked after the roads and public buildings, managed the police, and administered justice.\* After holding office for a certain time, the magistrates were admitted to the rights of Roman citizenship. The interference of the governor with them, though it not unfrequently happened, was contrary to settled constitutional ideas, and oppressed municipalities had a formidable power, often put into use in the early Empire, of accusing a tyrannical governor to the Emperor. Such a power is almost unknown in India. Mr. Wallace is dismissed from the Civil Service in Madras, not for being an inefficient public servant—

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\* The powers of municipalities varied largely. But what I say may be taken as a fair general statement.

though seemingly as an afterthought the Madras Government made that charge against him—but because he happened to be personally rude to a higher official than himself. But cases of dismissal, still more of legal proceedings in which the official is made personally responsible against members of the Civil Service for acts in excess or in violation of their duty, for acts of oppression towards the native of this country, are unknown. Now though the Civil Service is composed of a body of high minded gentlemen, it is simply impossible that any number of men, possessed of the power that they have possessed for the last century, could have, in all instances, used these powers without abusing them. The governing bureaucracy's influence in all cases in which a covenanted official is accused by the press or otherwise of any official delinquency is directed towards hushing up anything that savours of scandal, under the idea, that such scandal, if proved, does harm to our administration. Harm, of course it does, but does not concealment do double harm? Now after what I have said of Roman municipalities, it seems almost comical to read Mr. Warner's talk of them as exhibiting "the farce of self-government," whereas he seems to think our Indian municipal government if not perfection, at any way on the high road to it. One almost suspects him of having laughed in his sleeve when he penned the words. Allow me to quote from a High Court Judge a description, in a judicial decision, of the powers of the municipality—not of some obscure provincial town—but of a presidency town, Madras itself. It appears from the Municipal Acts that the Legislature intended that a budget for the ensuing year, "containing an estimate of the available municipal income, an estimate of expenditure as approved by the Commissioners, and proposals as to the amount of taxes necessary to be levied . . . for the purpose of meeting such expenditure in the next ensuing year of municipal taxation," should be submitted to Government in sufficient time to allow the Governor in Council to consider it, and to "pass, reject or modify all or any of the items" entered in it "or to add thereto any items before the commencement of the year for which the budget was prepared. Such legislation, interfering with and over-riding possibly a Presidency municipality in comparatively minute particulars, seems to render local self-government here much more of a farce than it was in the vigorous municipalities flourishing under Imperial Rome in its most palmy days. And what has been the condition of the ordinary mofussil municipality? Before the changes inaugurated by Lord Ripon took effect and the principle of popular election came into force, the Commissioners, 'jo hukims' as they have been commonly and not unjustly called, were really the obedient servants of the Civilian officer, usually

the Collector, who was their president and agreed to whatever he had to propose. And under the new system, the Commissioners, though elected by popular vote, seem to have not more power than they had before, and are under the drawback that the control from without, which is exercised over them, is exercised not by the Collector, who as the officer on the spot would be best acquainted with the necessities of the municipality, but by a Secretariat, the head quarters of which is for many months of the year in some remote hill station.\*

Another point in which the Roman administration seems superior to ours, besides the more vigorous life of their municipalities, is the greater chances a provincial had of rising under it than a native has under the British Government. A Spaniard was Consul very early in the empire, and the Emperor Nerva was himself also a native of Spain. Later on, after the days of Severus, there was more than one Barbarian Emperor, but the period I am especially speaking of is the first two hundred years of the empire. From the days of Julius, provincials were largely admitted into the Senate, and the Army and Civil administration were full of officers in the superior ranks, who had sprung from the provinces. It may be urged that the Spaniard, Gaul or Greek of those days was nearer to the Roman in habits, disposition and character than is the Indian to us. This is, to a certain extent true, but the native is largely acquiring English ways of thought, and what is true of him as regards his mental habits, may be prophesied to become more true every day in other respects also. The country, too, which he would be asked to assist in governing, it must be remembered, is his own. In the army the higher grades are totally debarred to him. It is doubtless true that he does not possess the perseverance, military genius, and I might add, physical stamina of the English soldier, and it would be unsafe to rely on him to any great extent in Europe against a European foe, and even in his own country too exclusively for resistance to, say, a Russian enemy. But nevertheless it remains true that there are martial races in India, whose old spirit has not died out by the *pax Romana* that we have established in the land, and who would be only too glad to enlist in our armies, provided that their nobles and their men of superior genius, might have a fair chance to rise to something better than a position a little inferior to that of a British captain. This question of employment of natives in our armies is one surrounded with serious difficulties,

\* It must be remarked that I am not discussing the comparative merits of democracy and autocracy in Municipal management. My remarks refer solely to the more extensive powers exercised by the Roman municipal authorities.

but it seems that public opinion is gradually coming to look upon it as imperative that something should be done to make the native army really popular by getting the upper classes of the country to join it. A consequence, not solely arising from the fact of the large employment of provincials by Rome in the civil administration and the army, but rising in part from it, was the slight military force it was found necessary to keep in many of the provinces. With a long extended boundary, in almost every side exposed to invasions from the barbarians, the Romans kept an army not nearly double of that which we keep in British India. In many provinces the number of troops were less than that we keep in Bengal. Surely this is proof enough that either the people were fairly contented or were totally degraded. The latter can hardly be asserted, as after the collapse of the Western Empire, many of the peoples again showed that they had not forgotten their ancient virtue. Finlay makes special mention of the bravery of the Greeks, of Greece itself, during the invasion of the Goths in the third century, though this people had for three centuries been almost totally unused to arms.

I think then that I have succeeded in showing that the provincials were, during the first two centuries of the Empire, not so very badly off. They had peace, were contented—certainly as contented as the people of India now are—though they were not lightly taxed, yet in the greater part of the Empire the taxation was not so heavy as to prevent their country prospering to a wonderful degree; they had a vigorous municipal life and deserving members of them could rise to honours far surpassing any that a native can aspire to in British India. It was to this fact that Mr. Arnold alludes when he refers to indignation being greater at our rule in India than to Rome's rule in the provinces. Whether such indignation exist in my reader, will depend upon the universality of his belief in the right of every nation to manage its own affairs.

Turning then from the provincial's day of prosperity to his day of decay, what were the chief causes that brought the latter about? I would reply three, the decline of the civic virtues among the people, the misrule of the military Emperors from the days of Severus, and the pressure of the barbaric tribes and the Sassanid Empire on the borders of the Empire. To these I might add as a minor cause, yet not without its power, the subjective turn of the mind, connected with, though not a necessary consequence of, Christianity. The withdrawal of thousands as monks to the Thebaid and to other solitudes to work out their own salvation, oblivious of the fate of all the world besides, sufficiently illustrates my meaning. The three causes first named are closely connected. The misrule of the Emperors caused increased taxation, increased taxation involved the municipalities in ruin,



caused the authorities to neglect their work, and was an important constituent in the gradual loss of the civic virtues, and the inroads of the barbarians also induced heavier taxes and a train of subsequent evils besides helping to render more and more important the military element in the state. Are any such causes working disintegration in the Indian Empire now? Certainly not in full growth, but the germs from which they may spring may be seen. Even the greatest philo-Russ will probably admit that Russian officers have often talked of the feasibility of conquering India, and that though the Russian Government may not have any such design, some move in European or Asiatic politics may cause it, if the English Government be not in its guard, to attempt at least some sort of attack in Hindustan. The Goth is not thundering at the gates, he is still far away in the steppes, but any day may bring him dangerously close. Precaution means expenditure, and expenditure means heavier taxation than the present, and, as I have already pointed out, the present taxation is already almost as much as the people can bear. Such a time, too, is one eminently when military demands exceed all others. I need hardly mention that the subjective turn of mind exhibited by the early Christians is largely reproduced in the attitude of large sections of both the English and the Indian people. A cure for these germs of evil will be extremely hard to find; but its foundation must be an economical administration, a complete revision of civil charges, and a policy of peace wherever possible. The influence of the democracy in England will probably be found strongly on the side of these reforms. It naturally will have but little sympathy with large salaries, highly paid appointments; its natural tendencies are all in favour of peace, and its feeling, to which I have already alluded, that the Indian people as men, have certain rights, will, certainly tend towards more of the native element, and consequently more economic element in the administration. That India should be a sport to party is an evil, but the good arising from the increased interest taken by the democracy in India, will in part counterbalance, if it do not outbalance, that evil.

26th November 1885.

PRINGLE KENNEDY.

### ART. III.—SKETCHES OF EUROPEAN HAJIS.

IN the *Overland Mail* of November 6th, 1885 (p. 56) there is an extract from the 'Men of the Day' series of *Vanity Fair* relating to Burton, in which we are told that this traveller 'penetrated, *for the first time*, into the hitherto sealed city of Mecca.' Considering that the statement comes from a widely read 'society paper' of the world's metropolis, it is startling. In a standard work recently published we are told, again, that 'only three Englishmen have been known to have visited Mecca'—namely, Pitts, Burckhardt, and Burton; which is the same as saying that only three Englishmen have made the visit, and of these one was a Swiss, and another an Irishman! These are but samples of a class of mistakes that may be continually met with in the higher order of journalism and literature of the day. As no monograph on the subject of the European Hâjis has ever yet (as far as our information goes) appeared in English or in any other language, the following Sketches may prove interesting to those who have a *punchant* for Islâmic matters. In order that the situation may be duly apprehended, we preface the Sketches with a statement of the nature of the authority on which the prohibition of non-Muslims, visiting the Ka'ba, rests.

In the ninth year of the Hajira—a year after the capture of Makka by the army of Muhammad—the conqueror established the law, that none but such as were adherents of Islâm should in future be permitted to gain admission to the Ka'ba, or to participate in the rites and privileges of the Sacred Territory. The circumstances which led up to the promulgation of such an ordinance may here be briefly stated.

During the years which had expired since the Prophet had taken up his residence in Madîna, he had abstained from being present at the time-honoured ceremonies of the Hajj, because the great mass of the pilgrims were, what he accounted, pagans, and because idolatrous practices mingled with the holy rites. Though now the master of Makka, he was still kept away from (in great measure) the same cause; unless indeed, we are to accept the explanation held by some, that he deemed it unsafe just then to leave Madîna owing to the threatened defection of some of his leading followers, in consequence of the serious domestic quarrel and scandal connected with 'Mary the Egyptian.' He resolved, however, that this should be the last occasion on which the Hajj should be disfigured by unworthy customs, and the Holy Places be polluted by the presence of Unbelievers. He was now strong

enough to banish heathenism entirely from his native city. When thus purified, the ceremonies might, without compromising his holy office, be performed by himself. In the year following he performed the pilgrimage which proved to be his last,—the pilgrimage historically known as *Al-Hajju'l-Wida'a*, or 'Pilgrimage of Farewell,'—and in the following year he died.

In the absence of Muhammad, the present pilgrimage—the Pilgrimage of the ninth year of the Hajira, historically known as 'the Pilgrimage of Abû Bîkr'—was attended from Madîna by a limited caravan of but three hundred men,—the Amîru'l-Hajj, or 'Chief of the Caravan,' being Muhammad's father-in-law and successor, Abû Bîkr. Shortly after the departure of the caravan from Madîna, the opening verses of the ninth Chapter of the Qur'ân were 'revealed,' the drift of which verses was the compassing of the purpose just alluded to. The passage is styled *Bara'at*, that is, 'Liberty' or 'Release,' because the Prophet is therein 'discharged,' after the expiry of four months, from any obligations otherwise devolving upon him towards the heathen Arabs. This important 'revelation' he entrusted to 'Alî, his cousin and son-in-law, who was despatched with it after the caravan. When he had overtaken the pilgrims and communicated the nature of his errand, Abû Bîkr inquired whether the Prophet had put him in command over the Hajj. 'No,' replied he, 'but he hath directed me to recite the Divine behest in the hearing of all the people.'

Accordingly, on the *Yaumu'n-Nahr*, or 'Day of Sacrificing,' at the place of lapidation at Mina, 'Alî read aloud to the multitudes who crowded round him in the narrow pass, the proclamation embodying the law of prohibition technically known as 'The Declaration of Discharge.' The words of the Qur'ân in which this regulation is embodied, occur in what is generally held to be the last of the Sûras—namely, Sûra IX (TAUBA) 17, 'where we read—

'It is not (seemly) that idolaters should visit the temples of God,—being witnesses against their own souls of (their) Infidelity. The works of these men are vain : they shall remain for ever in Fire.'

Still more explicit is the teaching of *ver.* 28, where we read,—

'O ye who are the true Believers, verily the Idolaters are unclean : let them, therefore, not come near the Holy Temple after this year.'

The proclamation is lengthy : we have selected only the portion that mainly effects our present purpose. In the lips of Muhammad, this term 'idolaters' is used in its strict and proper sense of 'image-worshippers,' and those to whom he applied it were those whom he had come to regard as his personal enemies,—the image-worshippers of Arabia, to whom up

to this time the Ka'ba had been for many ages a grand centre of devotion. Such persons had hitherto been in the ascendancy there,—enjoying all the advantages of political and religious control at a time when Arabia was a wealthy land ; and now that Muhammad had succeeded in dispossessing them, he claimed to exercise authority to exclude them altogether, unless they were prepared to accept him as their civil and ecclesiastical head.

His followers, however, have widened the scope of the prohibition, and they make it apply not to image-worshippers alone, but also to all persons whatsoever, who do not avow their acceptance of the Islâmic faith. So stringently, indeed, do they apply it, that even among the *bonâ fide* adherents of the Faith, none but those who are of the dominant sect are allowed access to the Shrine. Any members of the Shi'a persuasion (such as the Persians) who may gain the desired access, can only do so by the practice known in Islâm as *Taqaiyya*, 'suppression of one's real religious tenets.' Moreover the passages we have cited are regarded by Muhammadans as containing a Divine prohibition as to non-Muslims setting foot within any mosque whatsoever ; and the lateness of the period of the 'delivery' of the passages is understood to enhance, if possible, their authority : for 'the more recent, the more authoritative' is a dogma which Muslim divines apply to all revelation,—Jewish, Christian, Islâmic : hence, in the case of those numerous passages of the Qur'ân which contradict one another, the later ones prevail.

With this interpretation of the law, all the roads leading into the city of Makka are, from points of varying distance in the different directions thence, carefully guarded ; so that it is all but impossible that any one not a Muslim should gain access to the spot. Any attempt to contravene this law would, on detection, be visited with certain and severe punishment, and most probably with loss of life. 'I will not deny,' says Burton, in allusion to the first occasion of his standing within the chamber of the Ka'ba, 'that looking at the windowless walls, the officials at the door, and the crowd outside, and the place death, considering who I was, my feelings were those of the trapped rat description ; for however possible it may be for a Christian to breathe safely in Meccah itself, nothing could preserve him from the ready knives of enraged fanatics if he were detected in *The House* :—The very idea is pollution to a Moslem.' This corroborates the statement of Pitts,—'Tis as much as a Christian's life is worth to go into the temple.' All this is in entire keeping with the statements of other men who have travelled in Arabia. All authorities, in fact, are agreed as to the rigour with which the Sacred Territory in general, and the Ka'ba in

particular, is guarded against the approach of Christians. It was, however, long ago pointed out by Gibbon, that the prohibition does not apply to the entire continent of Arabia; for Christians are admitted without scruple into all the sea-ports of Arabia: even the Sacred Territory itself has been crossed and re-crossed, on many occasions, by Christians,—the chief objection being to the Ka'ba being beheld by the eyes of Unbelievers. Hence, Burckhardt (the sincerity of whose conversion to the Faith was suspected by Muhammad 'Ali) was escorted, on his first visit to Tâif, by what is known as 'the upper road,'—which skirts the Sacred City on the North, and from which the Ka'ba is not visible. So that in excluding Christians from the peninsula of Arabia, the province of Hijâz, and even the navigation of the Red Sea, Chardin and Reland are more rigid than Muhammadans themselves. The law does not, however, appear to require the exclusion of Christian *books* or the discussion of Christian topics; for Wolff speaks of a copy of the New Testament having been taken by a pilgrim to Makka, and of conversation on the subject of Christianity having been carried on by pilgrims within the Temple itself; that is, of course, within the hypæthrum which surrounds the Ka'ba.

As to Englishmen, however, the objection of Arabs to their visiting the Ka'ba is based, not on religious grounds alone, but also on the ground of nationality, as is abundantly proved by Burckhardt; and that which specially rouses them, is the discovery of an attempt to deceive them by the mere assumption of externals. Mr. Bicknell (who performed the Pilgrimage in 1862) seeks to put the matter in the true light. He tells us that his account (which is appended to Burton's 3rd. edition, 1879) was written by him from a desire to encourage other Englishmen, especially those from India, to make the visit to Makka at Pilgrimage-time; and that they should not allow themselves to be deterred by exaggerated reports concerning the perils of the enterprise. It must, however, he frankly confesses, be understood that it is absolutely indispensable to become a Musalmân, at least externally, and to assume an Arabic name. Neither the Qur'ân nor the Sultân enjoins the slaying of Jews or Christians who may intrude into the Sacred Territory,—provided, of course, they profess themselves converts to the Creed of the party prevalent in Makka—namely, the Sunnî party. Bicknell relates that two years prior to his own visit, an incognito Jew was found there, who refused to repeat the Kalima, or formula of the Islâmic confession of faith,—*Lâ ilâha illa 'Îlâh, wa Muhammad Rasûlul-lâh*, 'There is no Deity but Allâh, and Muhammad is the Messenger of Allâh.' He was crucified by the populace,—who, by such an

act displayed their feeling towards both Judaism and Christianity at one stroke. This traveller, however, differs from Palgrave when he says, that even an Englishman—provided he is sufficiently conversant with the prayers, forms, and customs of the Faithful, and possesses a sufficient guarantee of orthodoxy—need apprehend no danger, if he only obtain from the British Consul at Cairo an introduction to the Amīru'l-Hajj. This traveller recommends by name his Mutawwif, 'or Prayer-guide' (and local cicerone in general), whom he found extremely courteous and obliging. He adds that this man promised that he would shew other Englishmen the same polite treatment that he had himself experienced from him! All we can say is, that if the accounts of the other travellers are to be relied upon, Mr. Bicknell was particularly fortunate. Of course, neither the Amīru'l-Hajj, nor the Mutawwifs, nor any of the officials or non-officials there, would raise any objection to an Englishman seeing the Ka'ba, provided he professed himself an adherent of the Prophet. The conversion of all persons to the Islamic faith would be a matter for joy and thankfulness to the officials at Makka and to all true Muslims, but especially if the convert had formerly been a Christian or a Jew. But a Christian or a Jew who is true to his belief, makes his religion a matter of conscience, just as a Muslim does; and he would not feel himself at liberty to disavow or suspend his convictions, though for a few days only, even for the acquirement of the prestige of 'a Hajj.' But there are some minds that seem incapable of perceiving that this arises from any thing but narrow prejudice. In the passage just cited from Burton, he speaks of himself as a Christian, even when he stood within the Ka'ba.

But notwithstanding the terror of detection, the precautions of the Makkan authorities have, on different occasions, been circumvented; and, as a consequence, there are several valuable works now in existence containing more or less detailed accounts of the Ka'ba, and of the ceremonies carried on there. With the view of putting our readers into a position to estimate authorities, we have prepared the following brief biographical sketches. The list includes the names of all the non-Muslims who have ever visited Makka, and have left on record an account of their visit; and the sketches are arranged in chronological order. It has, of course, not been our aim to draw up a complete history of each man; but rather to bring together such of the leading facts of their several histories as relate to the circumstances under which their visits to Makka were respectively made, and to present a critical estimate of the value of their several contributions to an intelligent understanding of the subject of Makka and its religion.

The first European who ever visited Makka and Madina, and left an account of those cities, was LEWIS BARTEMA,—a native of Bologna and citizen of Rome. His name is found variously written Ludovicus Vertomannus, Lewes Wertomann (or Wertomannus), Ludovico Bartema (or Varthema), and Ludovico di Verthema.

The only reason this man puts forward for his making the perilous attempt, was a love of travel and a desire to see the world. To gratify this desire, he not only visited Arabia, but also many other countries,—such as Egypt, Persia, Syria, Ethiopia, and the East Indies, including some of the larger islands of the Eastern Archipelago. He embarked from Venice in 1503, and arriving first at Alexandria, he visited Babylon of Egypt, Beryuts, Tripoli, and Antioch. On the 8th of April of that year, he started from Damascus with the annual Syrian Caravan for Madina and Makka. To elude suspicion, he disguised himself in the dress of a Mameluke,—a term which he applies to ‘al suche Christians as have forsaken theyr fayth to serve the Mahumetans and Turks.’

After performing the ceremonies of pilgrimage in both cities (first, of course, in Madina) Bartema escaped to the Red Sea by Jidda, and embarked thence for Persia. But touching at certain ports in Southern Arabia, he was at length taken prisoner at Aden; and before he regained his freedom, he saw some other places of interest,—among which was the ancient and famous city of Sanaa,—the capital of Yaman. He appears to have feigned madness; and after many adventures, he succeeded in starting from Persia with the Indian fleet eastward.

The account of Bartema's travels was first published in Latin, at Milan, in 1511; and the first English translation of it appeared in Willes and Eden's *Decades*, quarto, 1555. This translation will be found in the second volume of Purchas's *Pilgrimages and Pilgrimage*, and in the first volume of Ramusio's *Raccolta delle Navigazioni e Viaggi*. The portion of his narrative that relates to his visit to Makka has been given by Burton in the first and second editions of his own work.

This old traveller's pages abound with such information as would be gathered by an unscrupulous and hard-headed observer in a fresh field,—with the added charm of a most interesting quaintness both in thought and style. They are, however, disfigured (as Burton has well pointed out) by a little romancing; as where he speaks of the Jews of Khaibar (near Madina) being ‘of the heyght of five or sixe spannes. and some muche lesse’! Some of these inaccuracies are too evident to impose upon any one; and they are attributable, perhaps, to haste or inadvertency, or to his information regarding some

things having reached him through untrustworthy channels. Even as to the little Jews of Khaibar, of whom he speaks, it may be doubted whether he spoke from personal observation of them. But ludicrous as the dimensions seem, it should be borne in mind, that all who have travelled much in the Arabian peninsula, testify to the undersizedness of the genuine Native of the interior:—he is, speaking generally, short, thin, and wiry. Yet, adds Burton, (from whom we have mainly taken these details of the man) for correctness of observation and readiness of wit, Bartema stands (all things considered) in the foremost rank of the Oriental travellers, of what may be called the olden time.

The next European who visited the Sacred Cities of Islâm was a fellow countryman of our own, JOSEPH PITTS, a native of Exeter,—the first, and till quite recently perhaps, the only Englishman, strictly so called, who ever went to Makka.

In 1678, when only fifteen years of age, this lad ran away from his parents with the determination of becoming a sailor and seeing foreign countries. With this object in view, he engaged himself on board a ship at Topsham, close by his native city. On the voyage, the ship was captured by a pirate of Algiers; and Pitts, among others, was taken prisoner and sold into slavery at that port. Unhappily for the poor lad, the man who obtained possession of him was, in practice as well as by profession, a person of singular cruelty. In addition to his being captain of a troop of horse, he was a profligate and a murderer. As often happens, however, in such cases, he had withal a decided touch of superstition; for he resolved to atone for his past sins by proselytizing a Christian slave to the Faith of Islâm. By dint of extreme and most inhuman cruelty towards poor young Pitts, he at last succeeded in extorting from him the words of that formula, the utterance of which is understood by the Faithful to constitute one a Musalmân. Of course, this was in truth no conversion at all; and Pitts glories in the fact that he still continued to read his Bible in secret, and prove to himself, in various other ways, (such as surreptitiously eating pork) that he was not a *bond-fide* adherent of the religion into which he had been cruelly forced by the merciless application of the bastinado and other tortures.

When this unfortunate lad had passed some fifteen years in slavery, his master, another man of the name of 'Umar, the third to whom he had been sold,—went on pilgrimage to Makka and took his slave with him,—travelling by the regular route of the Maghribi Caravan; by way of Alexandria, Rosetta, Cairo, and Suez, and thence by sea to Jidda. Pitts's sojourn in Makka extended over a period of four months: as he left



with the caravan soon after the termination of the pilgrimage, it is evident that he passed in Makka the month of Ramazân,—a circumstance that lends importance to his testimony respecting the imposing nature of the scene at the Temple during that month. Now, it is a law among Muhammadans that any non-Muslim slaves whom they may chance to possess are to be made free in the event of their embracing the Faith,—a law which is understood to be based on the practice of the Prophet in respect of his own slave Zaid ibn Hârith. From what we have just seen as to his having been flogged by his first master into the repetition of the Kalima, it does not appear that Pitts received the benefit of such law; for his own statement is, that this third master of his, desirous of effecting some atonement for his own past sins, gave Pitts a letter of freedom entitling him to wages. Though Pitts continued with him, yet as he had no intention of remaining among Muhammadans, he now began to think of returning, with all possible speed, to his distressed parents. Such a resolution, however, was attended with serious risks: but as even freedom, among such people, was to him a kind of odious servitude, he cast about for the first opportunity of effecting his escape to England. How he contrived to do so, it may be interesting to relate briefly.

It appears that the Grand Turk had sent to Algiers for ships, in one of which Pitts was allowed to embark,—in what capacity he does not inform us. From a Mr. Baker, the English Consul at Algiers, who took compassion upon him, he succeeded in obtaining a diplomatic letter to a Mr. Raye, then British Consul at Smyrna. The magnanimity of this act of Mr. Baker's will appear, when we observe that when, some years afterwards, he was waited upon in London by Pitts, he gave him a copy of the letter, with a memorandum written on the back of it in the following terms:—'Copy of my letter to Consul Raye, at Smyrna, to favour the escape of Joseph Pitts, an English renegade, from a squadron of Algiers men-of-war. Had my kindness to him been discovered by the Government of Algiers, my legs and arms had first been broken, and my carcase burnt,—a danger hitherto not courted by any.'

In view of an indefinite period of travelling in connexion with the hazardous course upon which he had now entered, the prospect of sacrificing eight months' pay and certain other moneys by his flight, seems to have weighed upon the mind of the unhappy fugitive, and to have led him to hesitate as to whether he would not, even now, return to Algiers. But he decided at length to persevere in the desperate enterprise to which he had committed himself; for had he been captured, now that he had entered upon it, he would have been dragged about the streets, face downwards, at a cart's tail, till he was

half dead, and then burned to ashes in the burial-place of the Jews. Step by step, circumstances transpired which were of a nature to facilitate his movements. Thus, on arriving at Smyrna, he found there a Mr. Eliot, a merchant from Cornwall, who had served some part of his apprenticeship in Exeter and was now settled at Smyrna. This man entered sympathetically into the case, and paid for Pitts's passage in a French ship to Leghorn, the sum of four pounds. The evening before sailing, Pitts went on board dressed as an English gentleman : and on landing at Leghorn, he prostrated himself and kissed the ground,—thanking God for his liberty, and that he was once more, after so long and bitter a period, permitted to set foot within the domain of Christendom.

Pitts travelled homeward through Italy, Germany, and Holland, as King William the Third was then at war with France. But on the first night of his arrival in England, he was impressed for the King's service. Despite his representations, entreaties, and tears, he was compelled to pass some days in Colchester gaol, and was finally put on board a smack, to be conveyed to the *Dreadnought* man-of-war. Happily, however, for himself, he had written to Sir William Falkener, a member of the Smyrna or Turkey Company in London ; and that gentleman used his influence to secure for Pitts a protection from the Admiralty Office. In this effort he succeeded ; and Pitts went at once to London to thank his kind benefactor. He then hurried down to Exeter ; but only to make the mournful discovery, that though his father was still alive, his mother had lain in her grave about a year. As he was absent from England nearly seventeen years, the date of his visit to Makka, which he does not specify in his narrative, may be put down as about 1693.

The long period of Pitts's residence in Algiers prior to his going to Makka, led to his becoming considerably conversant with the more colloquial element of the Arabic and Turkish languages. Taking with him to the Sacred City this important qualification, he was in a position to acquire a better knowledge of the beliefs and practices of Muhammadans than his predecessor Bartema attained to, and to interpret more correctly what fell within the sphere of his observation. Burton (than whom there is no better judge in such matters) testifies to the accuracy, in the main, of Pitts's account of the scenes of the Hajj. But much of the admitted inaccuracy of the book, as also its comparative meagreness, is owing, undoubtedly, to the fact that it was, all of it, written from memory long after the actual visit was made,—a fact which is shewn in the circumstance that, though Pitts had not seen the Royal Exchange (of London) till his return to England, yet he speaks of the Temple of

Makka as resembling it. But notwithstanding, this drawback and the evident defectiveness of Pitts's early education, his long residence in Algiers sufficed, in some measure, to supplement the deficiency, by giving a measure of fulness and finish to his observations. Bearing in mind all the peculiar and exceptional circumstances of this whole case, the consecutive-ness of Pitts's narrative and the comparative fulness and exactness of his information, do wonderful credit to his observancy and retentiveness.

That the view thus expressed coincides with the one taken by Pitts's contemporaries, is shewn in the circumstance, that as many as four editions of his little book were called for at intervals which, in those distant years, would not be considered great,—the first in 1709, and the last in 1738. There is also a fifth edition—merely, of course, a reprint of the fourth—which was published in London in 1810. The work (like so many of the works published in those remote days) has a long title ;—*A Faithful Account of the Religion and Manners of the Mahometans,—in which is a Particular Relation of their Pilgrimage to Mecca, the Place of Mahomet's Birth, and Description of Medina and of his Tomb there.* Inasmuch as Pitts was the first Englishman who had even visited the *terra incognita* of the Hijâz, and witnessed the performance of the ceremonies of Al-Hajj, his narrative long excited considerable interest, and does so still. He afterwards, we learn, became a Minister of the Gospel in connexion with the English Episcopal Church ; and a volume of Sermons preached by him may be seen in the library of the British Museum.

It is curious, as Dr. Crichton observes, that even so well-read a man as Gibbon was, seems not to have seen or heard of the interesting work of Pitts in reference to the subject of Makka,—though he should have known something of it from another work with which he certainly was familiar,—Sale's ' Preliminary Discourse.' It is one of the first and best books on the subject of which it treats ; and interesting as it still, on a variety of accounts, is, it is even now but little known. But since its author was evidently destitute of that kind of special education necessary in a traveller whose writings are to retain their place in such an age as ours, it has long been displaced by the writings of more scholarly and better equipped travellers who have visited the Hijâz within the present century.

The third European who visited Makka, and gave the world the benefit of his observations, was 'ALI BEY. In the case of any non-Muslims who would visit that city incognito, it is essential that they adopt an Arabic name. The name now given was the one assumed by Badî'a-y-leblich, Domingo (or Castillo),

who was born, according to some, in Biscay, in April 1766 ; according to others, at Barcelona, on April 1st, 1767.

Mr. Banks, the author of the *Life of Finati*, who tells us that he had access at Constantinople to the original papers, says that 'Ali Bey was a Catalanian, and was suspected to be of Jewish extraction. He is said to have obtained a liberal education at Valencia, devoting special attention to the study of Arabic, mathematics, and the physical sciences. His attainments, however, in the study of language, do not appear to have been in any way remarkable ; for, besides his mother-tongue (Spanish), he only spoke French, a little Italian, and the Maghribiyyan (or Western) dialect of Arabic,—which (as Burckhardt, who followed him in a few years, was informed at Aleppo) he spoke badly. On completing his educational term, he was employed in some capacity under the Government of his native country. At what point of his life the idea of becoming a traveller occurred to him, does not appear to be exactly known. Possessed, however, of a naturally lively and restless disposition, he at length formed the project of visiting Africa and Asia,—singling out, in particular, the Muhammadan countries which border on the Mediterranean.

In pursuance of this purpose, he (in 1797) resigned his appointment under Government, and went to Madrid to make proposals for a tour of exploration in Africa, in the scientific and mercantile interest. Having gained promises of support from Don Godoi, the Prince of Peace, he betook himself for a short time to London, in 1802, for the purpose of extending his knowledge of commerce and politics. During his sojourn in England, he sought to enlist the interest of some of the leading members of the learned Societies in his project,—which was, to visit Africa by way of Morocco ; and, before his departure, he spared no labour by which he might make himself familiar with the manners and customs of the peoples he intended to visit. It is now admitted that he was employed in his journeys in the East as a political agent in the service of the above-named King of Spain ; for he travelled with Oriental magnificence, and bore with him the strongest letters of recommendation from the Government of that country to all its agents abroad, and with an open credit upon them. He seemed, moreover, to be a particular friend of Don Godoi's,—occupying a portion of his time abroad in collecting objects of antiquarian interest for him. He travelled in the style of a Muhammadan prince ; and from the manner in which he was received by the Spanish ambassador at Constantinople, on his arrival at that place after his return from Makka, it became obvious that he was regarded, even in official circles, as a person of consequence.

: In his solicitude to elude suspicion in those countries where it is dangerous for a Christian foreigner to be found, he disguised himself as a Muhammadan,—even going so far as to undergo that painful ordeal required of all true followers of the Muslim faith. Thus equipped, he changed his name to *'Ali Bey al-Abbsi*—the latter portion of the name being a common tribal distinction among the Faithful—and set sail from Spain, in June 1803, for Morocco,—giving out that he had been born of Tunisian parents in Spain. There was much in his personal appearance that must have helped to confirm this delusion ; for he is described as a man of middling size, with a long thin head, black eyes, large nose, and a long black beard. He visited many of the Muhammadan countries ; and wherever he appeared, he was received as a person of rank. On his arrival in Africa, he represented himself as an adherent of the Muhammadan religion ; and by the style he assumed, he avowed himself a descendant of the Abbâside princes. His tact, abilities, and testimonials gained for him such esteem, that he was even invited to the Court of the Emperor of Fez and Morocco. After residing for a period of two years at the latter of these places, he set out on his journey to Makka in 1805.

He did not, however, proceed at once to the Sacred City, but sojourned for some time in Tripoli, Cyprus, and Egypt, and eventually journeyed from Alexandria to Cairo,—thence to Suez, and thence to Jidda,—arriving at Makka in January 1807.

After attending duly to the rites and ceremonies required of him there in his character of pilgrim, he returned to Cairo in June of the same year. This city he soon left for the purpose of visiting the chief places in Palestine and Syria,—including especially Jaffa, Damascus, and Aleppo. At this last-named place he occupied himself for two months in arranging the Journal of his travels. Here, it seems, he was suspected of being “a Christian” ; but his profuse liberality, and the pressing letters he brought to all persons of consequence, staved off or allayed the suspicions of those around him. He must, however, have experienced a very narrow escape of detection and exposure ; for Burckhardt says, that even when he visited the place, as much as seven years later, there was a great deal of talk about this man,—not only there, but also at Hamar and Damascus.

It is obvious that *'Ali Bey* did not, as some of the other travellers did, remain in Makka longer than was necessary for the mere performance of the rites of the pilgrimage ; for in the autumn of the same year, after having visited many places in Palestine, and made a stay of some time at Aleppo, we find him in Constantinople. Notwithstanding what has been said

above as to the manner of his reception by the Spanish Ambassador at this place, he soon found himself compelled to flee, on account of the reality of his being a Musulmân having become a matter of doubt.

It has been surmised that the commission with which this traveller started on his journeys was given him by Don Godoi at the suggestion of Napoleon. However this may be, on his return to Spain he declared himself a Bonapartist, and was afterwards (in 1809) made Intendant of Segovia and Prefect of Cordova. But the facile manner in which he shelved the question of patriotism and submitted to the French conqueror, proved fatal to his prospects in Spain; for on the expulsion of the French in 1813, he was compelled to take refuge in France. He took up his residence in Paris; where, in 1814, he published, for the first time, an account of his adventures under the title of *Voyages d'Ali Bei en Afrique et en Asie pendant les Années 1803 à 1807*. The work was issued by Didot in three volumes octavo. An English translation of it was soon afterwards published in London, and translations of it appeared in due course in most of the languages of Europe. The English translation was published in two volumes octavo in 1816, by the Messrs. Longman, Hurst, Reed, Orme, and Brown, of Paternoster-row. In the summer of 1814, the author went to London to make arrangements for this Translation.

Four years after the first publication of the work, the author set out again for Syria, under the assumed name, this time, of 'ALI UTHMAN, and was, it is said, accredited as a political agent by the French Government. He, however, only reached Aleppo,—where he died unexpectedly on August 30th, 1818, not without suspicion of having been poisoned. From the rumours above alluded to having reached the ears of Burckhardt in 1814, there would seem to be some ground for this suspicion; for seeing that comparatively few years had elapsed since the former visit to Aleppo,—years at a period of his life when men alter least in personal appearance, the change of name would rather have deepened suspicion than averted it, in the mind of any native of the place, who might fancy he traced a resemblance to the 'Ali Bey' of his recollection. The fact that, on the event of his decease, his papers were seized by the Pâshâ of Damascus, must ever tend to throw a cloud of apprehension over his fate. This second enterprise of his, brought thus to a speedy and untimely termination, has been without advantage to literature.

The value of 'Ali Bey's contribution to our knowledge of the Ka'ba and its ceremonies, ranks fairly high; for Burckhardt, who was singularly gifted with the faculty of recording with precision whatever came under his notice, attests that though

'Ali Bey's description of Makka was incorrect in some parts, and his antecedent information somewhat superficial, yet he had no reason to doubt his general veracity. Indeed, Burton is of opinion that the writings of this traveller have not been duly appreciated,—partly from his having been “a spy of the French Government,” and partly because “his disguise was against him;” though how this latter explanation applies is a point which Burton might have made a little more clear.\* His peculiar political situation, on the other hand, joined with his religious profession, led to his enjoying opportunities of making many observations which would not fall in the way of travellers less favourably circumstanced. His volumes are, consequently filled with various and interesting information, though the style is a little tinged with an air of exaggeration somewhat excusable in a person placed in circumstances so exceptional.

We now come to “the Prince of Arabian travellers,”—the SHAIKH IBRAHIM, whose qualifications as a visitor to Makka have, by common consent, never been surpassed, and whose narrative contributes more to our knowledge of learned detail than the narrative of any other traveller thither, whether before or since his time.

In saying this, we mean no disparagement of Burton, whose sojourn in the Hijâz was much shorter than Burckhardt's, and who himself says, with rare magnanimity,—‘I will do homage to the memory of the accurate Burckhardt, and extract from his pages a description which shall be illustrated by a few notes.’ How much more noble is the tone of this, and how much nearer the truth, than the contemptuous sneer of that garrulous and unprofitable old egotist, the far-wandering traveller Joseph Wolff.

When a man, furnished by nature and by education to the extent to which Burckhardt was, goes to a *terra incognita* like the Holy Land of Islâm, he sweeps all before him, and so clears the way for others that they get but a gleaning here and there of things that escaped his notice. But notwithstanding the ‘homage’ which Burton so justly does to the memory of his great predecessor, it must be said that his own writings contain many improvements on Burckhardt, and the indication of some errors of fact which somehow crept into Burckhardt's manuscript.

Johann Ludwig Burckhardt was a native of Switzerland,—

\* Burton may allude to his having travelled in the style of ‘a prince,’—a mistake that would have the inevitable effect of segregating him from the ordinary people, and thus debarring him from many opportunities of gaining valuable information.

having been born at Lausannè or (as some say) at Kirchgarten, near that place, on November 24th, 1784. Descended from one of the ancient families of Basle, his father (in consequence of mistreatment in the military service of the French conquerors) entered a Swiss corps then serving in Germany in the pay of England. This would seem to have been a predetermining cause of the turn which young Burckhardt's life eventually took; for he, too, disapproving of the policy of the French Republic in his Fatherland, resolved not to engage in the service of his country.

Having acquired the usual classical education at Neuchâtel, our author was, in 1800, placed at the University of Leipzig, and after a residence there of two years, he concluded his studies at Göttingen. Here he won the good opinion of the celebrated Blumenbach,—then one of the professors there; and when, in the summer of 1806, Burckhardt went to England to continue his studies, he took with him a letter of introduction from this patron, to Sir Joseph Banks,—at that time an active member of the Committee of the African Exploration Society.

It happened that some years previously, this learned body had sent a Mr. Hornemann with a commission to penetrate into Central Africa from the north, by way of Fezzân; and as they had now given up all hope of receiving intelligence from him, they resolved on sending another traveller to pursue the same errand in the same direction. In 1808, Burckhardt—led on by a love of enterprise and adventure that was natural to him—offered his services to the Association; and as he had already a friend in one of the most influential of its members, his offer was accepted. In the meantime he had been undergoing special preparation by a course of training in London and Cambridge,—where he studied chemistry, mineralogy, medicine, surgery, and astronomy. He also devoted particular attention to the study of the Arabic language, which he learned at Cambridge to read, write, and speak. He moreover, inured himself to all manner of hardships and privations,—to hunger, thirst, and exposure to bad weather. He likewise suffered his beard to grow, and accustomed himself to many of the other habits of Eastern peoples.

At length, in January 1809, he received his instructions from the Committee; from which he learned that he was to proceed first to Syria, where he was to remain two years to perfect himself in Arabic and kindred subjects.\* He was then to proceed by way of Cairo to Mûnzûk, in Fezzân, whence he was to cross the Great Desert to the Sûdân, and explore the sources of the Niger.

There is considerable diversity of statement as to the time of



Burckhardt's leaving England,—the dates varying from February 14th, 1809, to March 20th, and even the month of April of that year. All, however, agree that he arrived in Malta in April 1809. Thence, in the October following, he proceeded to Aleppo, for the purpose of following the course of study prescribed by his Committee; and that he might the better accomplish this object, he now changed his name to 'Shaikh Ibrâhîm ibn 'Abdû'l-lâh,' and assumed the guise of a Musalmân.

During the long period of his residence in Syria, he visited many places of interest in that country,—such as Palmyra, Damascus, Lebanon, etc.; and after passing two years in that part of the East, he had got to be so proficient in the Arabic language—including the colloquial dialects of the common people—that his speech is said to have been not distinguishable from that of the natives around him; and that he could, as afterwards appeared, travel undetected in the disguise of an Oriental trader. His mastery of the contents of the Qur'ân and of the native commentaries on the Islâmic religion and laws, was on one occasion put severely and unexpectedly to the test.

It appears that a doubt had been expressed as to his being a real and orthodox Muslim; and to remove that doubt, he submitted to a critical examination in the Qur'ân and the theoretical and practical parts of the Faith, at the hands of two of the most learned of the local Muhammadan jurists. He came out of this trying ordeal so well, that his examiners not only pronounced him a true and faithful Muslim, but also a very accomplished proficient in their law. Here, however, a difficulty arises, which the interests of accuracy require us to notice. Notwithstanding the success of Burckhardt in this instance, there is reason to fear that at least one of his editors, Colonel Leake, laboured under a manifest obliviousness in respect of the uniformity of the success which attended Burckhardt's efforts to secure his his own incognito.

In the first place, in the 'Life of Burckhardt,' prefixed to his *Travels in Nubia*, Colonel Leake says that Burckhardt's 'knowledge of the Arabic language and of Mohammedan manners, enabled him to assume the Musalmân character with such success, that he resided at Mekka during the whole time of the pilgrimage, and passed through the various ceremonies of the occasion, without the smallest suspicion having arisen as to his real character,'—language which, by the way, appears to imply that Burckhardt was not what he professed to be—namely, a convert from Christianity to Islam. Now, Sir William Ouseley, the editor of the octavo edition of the *Travels in Arabia*, obviously sympathized with this statement of Colonel Leake's; for he quotes it approvingly, and without criticism.

These writers, however, are strangely oblivious of a portion of Burckhardt's work which they had both of them read, and which one of them edited. Speaking of one of the officials in the retinue of the notorious Muhammad 'Ali, whose guest Burckhardt was at Tâif for a few days, the great traveller writes,—'I am still ignorant of the Pâshâ's real opinion concerning my sincerity in professing the Mohammedan faith. As to the Kadhy, it struck me that his behaviour towards myself was connected with an intention of accusing the Pâshâ, on his return to Constantinople, of having protected a Christian in his visit to the holy Cities,—a crime which would be considered unpardonable in a Pâshâ. Mohammed Aly, after his return to Cairo, took frequent opportunities, and indeed, seemed anxious to convince Mr. Salt and Mr. Lee, His Majesty's and the Levant Company's consuls, as well as several English travellers of note who passed through Cairo, that he knew perfectly well in the Hedjaz, that I was no Moslem, but that his friendship for the English nation had made him overlook the circumstance, and permit me to impose upon the Kadhy!' It is evident that when Colonel Leake wrote the statement to which we have taken the liberty of taking exception, he must have seen this statement of Burckhardt's; for it is in allusion to this very period when the traveller was brought into contract with the Egyptian Pâshâ—namely, when Muhammad 'Ali was in the Hijâz—that the Colonel's statement was made.

Now, without for a moment wishing to detract from the well-deserved celebrity of Burckhardt, we have felt it important to point out, that his own account of the matter shews that the statement we have just quoted from enthusiastic editors is a little strained. There are, as a matter of fact, several other passages besides the one just cited, which shew clearly that the genuineness of his 'conversion,' was a matter of serious doubt even among the Arabs at Makka, and which by his own shewing, occasioned him very great solicitude on different occasions. Indeed not only the great traveller himself, but Burton also says enough to corroborate the assertion of Palgrave,—that the idea of effectually eluding suspicion as to one's real identity, is a mistake and a delusion. 'I do not believe,' says Palgrave, 'that *any*, who are rumoured to have followed this plan' (that of disguising themselves) 'in Mahometan countries, really passed undiscovered. Some instances of detection, and of detection followed by fatal consequences, are recorded. Others more lucky, have returned to boast of the impunity with which they had made a jest of oriental religion, and to publish their imaginary success. But I have strong reason to believe that in no case has the result been exactly what was imagined. Of one or two alleged Dervesh-personifiers, I have heard much

from the natives of the very land that was the scene of their fancied incognito, and was assured that they were everywhere recognized, often tricked, and only saved from worse, by the prudent politeness and dissembling courtesy of those amongst whom their good luck had cast them. Yet those were described as men of no ordinary address and long acquainted with the East. And I can hence hardly imagine that others, gifted with less aptitude, and of more superficial acquirements, can have obtained better fortune in their disguise. Of all this we have still further corroboration in the words of Burckhardt himself. On one occasion he read some portions of Antar's 'Golden Poem' to some Badawis. As a proof of the excellence of the poem, it is said that these wild desert men were in ecstasies of delight: not so with the proficiency of the reciter, for he tells us that they were so enraged at his 'erroneous pronunciation, that they 'tore the sheets out of his hands'! This is but simple matter of fact, which cannot be discounted by the kindly sentiments of Burckhardt's editors. And on the whole case we learn that we must not form too high an opinion as to the gullibility of the unlettered Arabs; and that where so accomplished a linguist as Burckhardt failed, it is vain for ordinary men to expect to succeed in bamboozling them. We learn even from Burton himself, that his incognito was known from first to last by the *enfant terrible* who served as his attendant, and who (after accounts were squared!) shouted out the fact in the streets of Jidda.

To return, however, to Burckhardt and his examination.

The chief object of his sojourning at Aleppo being thus attained, he set out for Cairo with the intention of joining a caravan and travelling to Fezzân. He arrived at Cairo in the beginning of September 1812; and while there awaiting the caravan, as there was no prospect of a favourable opportunity of going to Fezzân, he undertook a journey up the Nile as far as Mahass. He easily perceived that it would prove of great advantage to him in executing the commission with which he had been entrusted, if he were to go to Makka and earn the title of 'Hâjî' by performing there the rites of the pilgrimage. From Mahass, assuming the character of a poor Syrian trader, he made a journey through the Desert of Nubia (which Bruce had traversed before him),—passing by Berber and Shendy to Suâkin, on the western shore of the Red Sea. From this place he embarked for the purpose of engaging in the rites of the pilgrimage, and landed at Jidda on July 18th, 1814. He thus spent the hot months in the Hijâz.

Burckhardt did not go direct from Jidda to Makka, but proceeded to Tâif,—a distance of some five day's journey inland from Jidda. Here he found Muhammad 'Ali, who after

having taken possession of the Hijáz, in which is situated the Holy Land of the Faith, was preparing for an expedition into Najd, the country of the Wahhábís. The Páshá, who had met Burckhardt at Cairo, received him favourably. He was, moreover, so fortunate as to obtain a supply of money from the physician of Túsún Páshá, Muhammad 'Alí's son.

During his journeyings in the East, Burckhardt travelled as an Englishman who had become a proselyte to the Muhammadan faith. It is probably to this circumstance that we owe the statement, that Burckhardt was 'one of the only three Englishman who ever visited Makka.' The fact is, that poor young Pitts is the only Englishman ever known to have gone thither; unless we are to except Mr. Bicknell, of whose nationality we have no information. As a rather remarkable instance, shewing the circumspection with which the statements even of learned and travelled men ought to be received, we may note that even Washington Irving in his *Life of Mahomet*, says of Burckhardt, that he 'gained admission into Mecca in disguise and at great peril,—admittance being prohibited to all but Moslems,'—a statement which leaves the impression that Burckhardt visited Makka *à la* Burton. Inasmuch as Pitts went by compulsion—that is, was taken in the character of a slave—it may be said, barring the possible exception just mentioned, that English enterprise has yet to win the honour (if honour it is) of sending one of England's own sons to explore what (as far as *bonâ fide* English travellers are concerned) is still a *terra incognita* to travelled Englishmen. To affirm that this honour has already been won by Burton is to say that the only Englishman who ever went to Makka was an Irishman. The same if this distinction is claimed for Mr. Keane,—who is also, we believe, a native of the Emerald Isle.

After a short sojourn at Táif, Burckhardt proceeded to Makka, and in the character of a pilgrim of the Muhammadan faith, performed the journey to 'Arafât (the perihelion of the Háji) on November 25th, 1814. He went through the whole of the prescribed ceremonies without (as far as he was aware) awakening in the minds of those similarly engaged, any suspicion as to his motives or identity. He appears to have been in the lower Hijáz—hovering about between Jidda, Táif, and Makka—some four months at least; for it was not until January of the following year (1815) that he made the visit to Madína,—a city of which, up to that time, still less was known in Europe than of Makka. At Madína he fell ill; and when, after some months, he recovered strength sufficient for travelling, he went to Yanbu',—whence he embarked for Tûr, in the Sinaitic peninsula. Thence, in June 1815, he returned by Suez to Cairo in a state of great physical exhaustion, after

enduring privations and sufferings of the severest kind, and after an absence from Cairo of nearly two-and-a-half years,—of which time he passed nine months in Arabia.

The details of this journey of Burckhardt's furnished the most complete account of the Hijâz and its two Sacred Cities that had ever been received in Europe. To Burckhardt, however, the cost of the journey was great; for the hardships he had undergone in Arabia had fatally undermined his constitution. He never recovered from the effects of the deleterious climate and the unwholesome water of the country.

In the spring of 1816, Burckhardt journeyed to Mount Sinai and the Ælantic gulf,—whence he returned to Cairo in June of that year, and made preparations for his intended expedition. For several years past no caravan from Fezzân had made its appearance at Cairo. Now, however, one was expected; and as Burckhardt intended to make his journey thither by the returning caravan, he remained at Cairo. In the autumn of 1817, it became known there, that among the pilgrims collected in Makka that year, there was a party of Maghribiyyans who were to return to their homes in Western Africa by way of Cairo and Fezzân, and it was believed that this caravan would start from Cairo about December. Burckhardt was not destined to join them.

In the early part of October he fell ill of dysentery at Cairo, and there expired on the night of the 15th or 17th of that month. As a 'true and holy Shaikh' he was interred with all funeral honours by the Turks, in the large Muhammadan burial-ground in that city. The cemetery lies outside the Bâbû'n-Nasr,—the stern old massive gateway which opens upon the Suez road.

The personal character of this distinguished traveller is said to have been such as to have commended him to all with whom he came into contact,—not only among Europeans of his acquaintance, but also among the Christians and Muhammadans of the lands in which he travelled. His loss, at so early an age, was consequently deeply deplored in the interests of geographical science—not in England alone, but also among learned men throughout civilized Europe.

The account of Burckhardt's decease which Burton, forty years later, found to be current in Egypt, serves to illustrate well the singularly weird character of the credulity of Muhammadans in all that appertains to the subject of religion. After returning (the story goes) from Al-Hajar, Burckhardt taught *Tajwîd*, 'the Art of Chanting the Qur'ân,' in the Azhar mosque at Cairo. Here he was suspected by the learned to be at heart 'an infidel'; that is, a non-Muslim. They accordingly examined his person, and (sure enough!) they found the sacred

Kalima written, in token of abhorrence and contempt, on the soles of his feet! Hereupon, the Principal of the mosque, in a transport of holy indignation, decapitated him with one blow of his sword!

Burckhardt carefully transmitted to England, from time to time, his Journals and Notes, as also a very copious series of letters: so that nothing which appeared to him to be of interest in the various journeys he made, has been lost. He kept himself in constant communication with the Society he served; and the Committee, as occasion arose, laid his communications before the public, with appropriate maps. His collection of Oriental manuscripts—numbering, according to some, 350, according to others, 800—he bequeathed to the library of his own University town of Cambridge. Since his decease the contents of his papers have, with a great deal of pains, been classified, and made up into a series of most valuable volumes. In justice to Burckhardt, however, we are bound to say that his editors have not, in all instances, succeeded in preserving the continuity of the subject-matter: so that when the reader imagines that he has seen all that Burckhardt had to say on a subject, he at length comes upon some further stores of information regarding it in some most unexpected connexion. His *Travels in Arabia*, the work with which we are here mainly concerned, was published in English by Henry Colburn, of New Burlington-street, in 1829, in one volume quarto, and two volumes octavo. The work has been translated into French (and published in two volumes) by Mons. d'Eyriès. We are not aware whether it has ever appeared in any other language.

Burckhardt was a born traveller and discoverer: nothing escaped his eye or his ear. His innate love of adventure was accompanied by the faculty of observation of the highest order. His writings are characterized by a scrupulous truthfulness and painstaking accuracy that are manifest at every step: they are consequently remarkable both for the authority they carry, and for the interest they awaken and which they sustain throughout. They throw much light on the geography of the countries which the great traveller visited; as also upon the manners and customs, the laws and religion, the trade and commerce, the language and history, of their several peoples; while the circumstance of his having passed in Makka the season of Ramazân adds a special interest to his account of the city and its numerous ceremonies. But that which, more than anything else, lends a permanent value to Burckhardt's visit, is his presence there during the famous conflict between the Wahhâbîs and the Turks. His intimate relationship to the original sources of information, render his historical notices of contemporary events, and his 'Notes' concerning

the Arab tribes in general and the Wahhâbîs in particular, the best historical record on those subjects, and constitute an authority from which there is no appeal. He has been said, by some writers, to have been the first European who visited the Ka'ba since the founding of Islam,—an error against which, in justice to his predecessors, we ought to guard. It has also been said that since his time the place has been visited by several Europeans in the pay of Muhammad 'Alî, the Egyptian Pâshâ, whose memory Burckhardt, with very good reason, has made odious. This we are not in a position either to affirm or to deny; for no account of the travels of any such persons has, to the best of our information, ever appeared in print in any form. The only European we know of as having been in the Pâshâ's service, was Thomas Keith (a Scotsman) *alias* 'Agâ Ibrâhîm.' But though this man held an important post at Madîna, we have not met with any evidence that he ever went to Makka, much less that he ever performed the pilgrimage. He died in the Hijâz. The writings of Burckhardt may be quoted with confidence to Muhammadans, because he is held by them to have been a convert to their Faith, and will therefore not be held to have been the subject of religious antipathy or bias. He may, moreover, be quoted with all the more confidence from the fact, that his acquaintance with Islâmic history and dogma surpasses immeasurably that of most adherents of the Faith, and because of his acknowledged and transparent excellence in the matter of learned precision and manly simplicity. With some acquaintance with the subject of which we write, we may say that we have yet to learn that there is any Muhammadan writer, ancient or modern, who can be quoted with greater safety than he.

The next European of whose visit to Makka there is any record, is HAJI MUHAMMAD, who is, we are bound to confess, the least satisfactory of all in the list. This was the name assumed by Giovanni Finati,—a native of Ferrara, in the north of Italy. Trained for the profession of a priest of the Romish persuasion, he early conceived an aversion to the whole subject of religion, and in the year 1805 joined the Italian army. He appears, according to his own representation, to have been a person of anything but creditable morals; and in course of time, in company with some fifteen other Italians, he deserted to the Turks at Antivari, in Albania. There they lodged in the mosque, and eventually professed themselves Musalmâns.

Finati now assumed the name we have mentioned, and the party afterwards removed to Scutari in the service of the Turks. Unable, by reason of his own criminal conduct, to continue there long, he made his escape to Egypt,—the El Dorado

as Burton says, to which all the poverty-stricken Albanian adventurers were at that time wont to flock. At Alexandria he voluntarily enlisted as an Albanian private soldier, and proceeded thence to Cairo. In the early part of 1814, he joined a reinforcement of Albanians, and assisted at the siege and capture of Kunsurdah, and was present at its recapture by the Wahhâbîs. From a variety of causes he again deserted, and then proceeded on the visit to Makka. There is no evidence that he made notes of what he saw there, or that he had any but the most idle purpose in going.

Beyond the fact that Finati was a man who had roamed a great deal, there is nothing of interest concerning him which it falls within our purpose to record. He cannot be regarded as 'a traveller' in any important sense of the word; for he was uneducated, lacking in curiosity and enterprise, and not endowed with the faculty of observation to any degree worth mentioning. Burton well says of him, that he appears to have been a man who, under circumstances that were favourable, contrived to learn as little as possible. Through long disuse of the art of writing, he at length became very slow in the use of the pen: but he found in London some one who took down his story in Italian; and in 1828 this was translated into English by Mr. William John Bankes, who, whenever necessary, consulted the author personally, and thus secured perhaps a measure of accuracy. The work was entitled *Narrative of the Life and Adventures of Giovanni Finati*, and was published by Mr. John Murray, of Albermarle street, in 1830, in two volumes foolscap octavo. As one of the indications of the uneducated nature of the man, he nowhere tells us in what year his visit to Makka took place. It was about the time of Burchkhardt's visit,—most probably in 1815.

The next European, SHAIKH 'ABDU'L-LAH, who ran the gauntlet of this most dangerous journey, was a native of one of the British isles,—Richard Francis Burton.

This highly useful and far-famed traveller was born at Galway in 1821. He was intended for the ministry of the English Episcopal Church, and with this view he was sent to study at Oxford. But he was so desirous of military service, that in 1842 he went to India,—having obtained a commission in the Indian army. During those periods when he was not on active service, his enthusiastic and enterprising nature led to his occupying his leisure in various ways that contributed to his own improvement and the information of his fellow-men. In this spirit he was led to occupy his furlough in 1853 by visiting the Sacred Cities of the Hijâz.

Though he was influenced by a variety of secondary objects



Burton's primary and all-absorbing purpose was to see, with his own eyes, that Holy Land of the Muslims of which as yet so little comparatively was known. Having obtained from the Royal Geographical Society of London the means of travel, Burton (in order to maintain his incognito from the first) dressed himself in the attire of a Persian prince before embarking at Southampton, and he occupied the fortnight of the voyage thence to Egypt in acquiring as much as possible of Oriental manner. His marvellous linguistic faculty and power of imitation, together with a countenance which, under the disguise of an Oriental gentleman, would (to judge from his picture) easily deceive the peoples with whom he met in Arabia and elsewhere, completely secured him from exposure,—and, as he believes, from detection (excepting by the promising youth already alluded to).

Commencing with the Persian title 'Mirza,' he found it convenient, before starting from Egypt, to assume the more impressive title of 'Shaikh 'Abdu'l-lâh.' In order moreover to be prepared for the Eastern practice of asking a man about his family-connexions, his whereabouts, his name, etc., Burton gave out that he was a Pathân (the Indian appellation of a Native of Afghânistân), that he was born in India of Afghân parents, and educated at Rangoon; and that he was afterwards sent to wander (as men of the Afghân race frequently are) from early youth. To sustain this character requires a knowledge of Persian, Hindustânî, and Arabic,—all of which languages Burton tells us he knew sufficiently well to pass muster: and any trifling inaccuracy would be attributed to his long residence in Rangoon. By way, moreover, of identifying himself with the theological school and party then (and now) in ascendancy at Makka, he called himself an adherent of the school of the Imâm Shâfai'î—and by implication, of course, a member of the Sunni sect. He would thus be spared any unpleasant jarring with the local authorities at Makka. Burton thus executed his perilous enterprise as a born Afghân and a born Muhammadan; and this double disguise he sustained throughout.

For the purpose of the journey with the pilgrim party from Cairo to Makka, Burton professed the knowledge and practice of medicine, and passed under the title of 'Hakîm Abdu'l-lâh'; that is, 'Dr. Abdul.'

By all these accomplishments and contrivances, he was well guarded against the danger of detection by any one he might meet with hailing from Afghânistân. There is, however, an exaggerated notion abroad regarding Burton's success in eluding suspicion. Almost at the beginning of his journey, when he had travelled no further than Suez, he was, he tells us, 'led into an imprudence which might have cost him dear.'

He allowed his fellow-pilgrims to get sight of his sextant! 'This,' says he, 'was a mistake. The boy Muhammad, as I afterwards learned, waited only for my leaving the room, to declare that the would-be 'Hâjî' was one of the infidels from India, and a council sat to discuss the case,—and so on. After he had returned to Egypt from Makka, he found that 'the general report was, that an Englishman, disguised as a Persian, had performed the pilgrimage, measured the country, and sketched the buildings.' At length the suggestion was openly ventured that Burton was not a Musalmân! The surmise was thrown out by the boy who had been his attendant through the whole journey and had closely watched his proceedings,—not, however, until the journey was over, the lad was paid his arrears, and our traveller was about to embark at Jidda. The evidence thus afforded by Burton, tends to corroborate the observation already quoted from Palgrave.

The results of this journey Burton gave to the world in three handsome volumes published in London in 1855, by the Messrs. Longman, Brown, Green, and Longmans. In 1857 a second edition was issued by the same firm in two smaller volumes unabridged; and in 1879 the work reached its third edition, and was then published, (with many important omissions, a few corrections, and some misprints) in one thick volume, by William Mullan and Son, of London and Belfast, under the title (in each case) of *Personal Narrative of a Pilgrimage to El-Medinalah and Meccah*. The value of the work is considerably enhanced by the several maps, diagrams, and woodcuts it contains.

Of all the accounts written of these two cities, that of Burton is the most fascinating and the most vivid. His account of Madina is by far the fullest account ever written of that city by a European,—Burckhardt having been, as already observed, dangerously ill during the whole time of his sojourn there. The traveller who stands nearest to Burton in the interest of his narrative, is Burckhardt,—whose work, however, regarded not from the stand-point of the general reader, but from the stand-point of the learned, is not surpassed by Burton's. To Burton we owe nearly all that is known of the city which afforded an asylum to the Prophet in the days of his adversity, and in which at length he died; for it unfortunately happened that owing to the serious illness from which Burckhardt suffered during the time he spent in Madîna, which confined him nearly the whole time to his bed, that lamented traveller was unable to collect full and satisfactory information regarding it during his sojourn there.

The next in the list is ABU'L-WAHID,—the assumed name of Mr. Bicknell,—a military gentleman known to Burton.

This traveller made the journey in 1862,—travelling from Cairo to Suez, and thence (like Pitts) to Jidda direct. As he performed the ceremony of 'the Standing on Arafât' on June 5th, he too, like Burckhardt, had a taste of the notoriously oppressive heats of Makka in the warm months. He did not visit Madîna, but brought his journey to a close as soon as the ceremonies of the Pilgrimage were over.

The account of Makka and its ceremonies given by this traveller is very brief and compressed, and appears as an appendix to the third edition of Burton's work. It contains but little that had not already been recorded by previous travellers, and is mainly useful as confirmatory of their statements. Much more exact, but scarcely more full, than the account given by Finati, one could wish that this traveller had left on record a narrative more proportionate in interest and in bulk to the personal discomforts he appears to have undergone in the hazardous enterprise.

The last European who from pure curiosity to visit the birth-place of Islâm, made the perilous journey, was MUHAMMAD AMIN,—a young man of about twenty-four years of age, hailing (we believe) from Ireland. The name we have given was the assumed name of Mr. F. J. Keane, who appears to have travelled a great deal by sea and by land in both hemispheres, and at length found himself (in the capacity of mate of an English ship) at Jidda. While here, he determined to get a sight of Makka, and with this view he left his ship and began by keeping a coffee-shop at Jidda, as a Muhammadan,—till such time as he should become *au fait* in the language, manners, and customs of the people around him, and (in particular) till he knew how to recite the prayer-forms, how to behave in mosque, etc. He then engaged himself as a servant to a rich Muhammadan merchant from India, and travelling with the retinue, sometimes walking, sometimes sharing a camel with another servant—he made the five-and-forty miles or so between Jidda and the Sacred City. Here he remained for a series of months, during which long period he had some very narrow escapes of detection.

When his purpose was fulfilled, this traveller published an account of his pilgrimage in a volume entitled *Six Months in Meccah*, which was published in 1881, by the Messrs. Tinsley Brothers, of London,—the author giving at the end a promise of an account, in some future volume, of his visit to Madîna.

This work is of considerable interest to the general reader; but beyond merely confirming what was already known, it will not be found of much value to scholars. There is, besides,

a distinct tinge of religious antipathy, and an occasional coarseness of expression which the reader learns to regret. The frequent application, moreover, of the term 'nigger' to the people with whom he met, becomes so unpleasant that it may be hoped that the writer will not allow so needlessly hurtful an expression to appear in future editions of his exceedingly interesting work. A very important feature of the book is the discovery by this traveller of an Englishwoman in Makka, who had resided there for the long period of twenty years. She passed in Makka by the name of *Zorah Begum* ('the Lady Venus'), and soon after Keane's departure, returned to India in company with the family of Muhammadans with whom she had been residing. The story of this poor woman forms quite an affecting feature of the book.

But to scholars, the most noticeable feature of Mr. Keane's visit will be the fact that, on that occasion, the *Waqfa*, or 'Standing on Arafât,' took place on a Friday—*viz.*, on December 14th, 1877,—the occasion of the *Waqfa* occurring on this day of the week deriving its interest and importance, in the estimation of the Faithful, from the fact that it was on this day that the *Waqfa* occurred on the occasion of the Prophet's last pilgrimage. Of all the European travellers who have ever yet visited Makka at Pilgrimage-time, Keane is the only one who has earned the distinction of being present on the occasion of what is, on this account, known as the *Hajjü'l-Akbar*, or 'Great Pilgrimage.' But beyond the already well-known fact that on the occasion of this coincidence the crowd is larger than usual, this traveller says nothing that could lead one to suppose that there is any variation in the ceremonies of this, as compared with the ordinary yearly Hajj. It is not improbable, however, that allusion may be made to the point in the 'sermons' preached on the occasion, and especially in the chief one (which is delivered on 'Arafât on the gala-day of the Hajj). Another thing that lends a special interest to his work is that he was one of the only three of the travellers who had the opportunity of passing in Makka a portion of the month Ramazân,—the other two being Burckhardt and Pitts.

This completes the list.

Various attempts, however, have at different times been made, by other persons than those we have enumerated, to gratify curiosity by seeing for themselves this famous *terra incognita*; but from different causes they have failed to give to the world any information beyond what we already possess.

The earliest known, of those who come under this head, is Shaikh ibn Batûta,—who performed the Pilgrimage as long

ago as 1332, and afterwards left an account of his adventures. The work was translated into English by the learned Samuel Lee, Professor of Arabic in the University of Cambridge; but it contains but few facts concerning Arabia. As for Makka, this enterprising traveller's whole account of it is—'May God ennoble it!' His remarks regarding Sana'a, Aden, Masqât, and other interesting places he visited, are equally barren.

The next of this class is Seetzen, a German traveller, said by Wolff to have been a person of high talent. He was in Makka during the time of the Pilgrimage, in or about the year 1806, under the protection of a Moorish merchant. He published his account in a work entitled *Les Mînes d'Orientales*; but his stay at Makka was short, and his description of it adds nothing to what has already been said by 'Alî Bey and Burckhardt. Considering the extent of Seetzen's journeyings and the surpassing interest of the places he visited, he has not contributed to our knowledge so much as might have been anticipated,—though the book he wrote is of considerable size. His purposes seem to have been thwarted: thus, he passed through Idumæa in 1806, where he 'expected to make several discoveries; but the fates decided otherwise.' His account of Sana'a is highly laudatory,—it being, according to him, superior to most cities which he had seen in Palestine, Syria, or Arabia.

The third of this class is Captain Sadlier, who, in the year 1819, crossed the continent of Arabia from the Persian Gulf to the Red Sea, a distance which cannot be less than seven hundred and fifty miles. In that year he made an attempt to enter Makka; but he wore a Frankish costume, which proved fatal to his project as regards both Makka and Madina. At what period of the year he made the attempt—whether at the Pilgrimage-season or not—and what were the exact circumstances, we have been unable to ascertain. Sadlier afterwards wrote an *Itinerary* of his travels, which we have not seen. He held in Arabia a commission from the British Government to coöperate there with the Egyptians in their attempt to subdue the Wahhâbis; and this appears to have been the occasion of his visiting the country.

Another abortive case is that of Dr. George A. Wallin, Professor of Arabic in the University of Helsingfors, in Finland. He visited Makka in 1845, just eight years before Burton, under the *nom-de-plume* of WALIU'D-DIN, and actually succeeded in performing the Hajj: he is hence known as 'Hâjî Walî.' But he was prevented from taking notes by reason of the very perilous circumstances in which he found himself, and by what he describes as 'the filthy company of the Persians.' From the way in which Palgrave attests the

accuracy of the statements made by this traveller concerning other parts of Arabia than the Hijâz, it is impossible not to regret the absence of a written account of his observations in the Makkan territory.

Burton speaks of a well-known French traveller, Mons. le Comte d' Escayrac-Lautune, who was living at Cairo as a Native of the East, and preparing for the Pilgrimage, at the time when he was himself similarly occupied in that city. He, however, unfortunately for his project, went to Damascus, for the purpose, apparently, of proceeding to the Hijâz by the Damascus Caravan. While he was there, some disturbance arose which compelled him to resume his nationality; and thus an end was put to his enterprise.

One European—the only one Burton says he ever knew of who attempted to do so—visited Makka, *mirabile dictu!* without professing himself a Musalmân. It was Mons. Bertolucci, the Swedish Consul at Cairo. This man succeeded in persuading the Badawî camel-drivers, who were accompanying him to Tâif, to introduce him in disguise. This journey, too, was unprofitable as far as literature is concerned; for Bertolucci confesses that terror of exposure prevented him from making any notes. The case serves to illustrate what has been said,—that non-Muslims have crossed and re-crossed, at different periods the Sacred Territory in all directions without detection, and that there appears to be an understanding that not much harm is done, provided such persons are taken by 'the upper road,' so that their eyes defile not with their glance the Ka'ba itself.

This completes our account of the European travellers who have visited Makka. We regret that owing to our lot being cast in a land far removed from the great Libraries of Europe, we have not had the opportunity of seeing any of the works, of the writers mentioned in the list immediately preceding this paragraph. But from what has just been said, it is evident that the loss is not great. There is reason to fear that the attempt to visit Makka, and other parts of Arabia, in the interests of science and antiquarianism, has been made by some who have perished in the attempt. Such, at least, is the boast of the Arabs. It is terrible to think that any man should assume, from whatever motive, the profession of a religion which he does not believe, and be visited, in the very act, by detection and death.

In the series of sketches we have given, we have several times had occasion to note the opinions of the travellers respecting the writings of their predecessors in the field. There is something of chivalry in the tone of their criticisms of each other, and an

evident absence of what might, for the occasion be called, professional jealousy. And from these criticisms of theirs, the reader is able to arrive at a pretty clear conception of the qualifications and mistakes of each, and to rank them in the proper order in respect of trustworthiness. No one could hesitate in placing Finati at the bottom of the list, in respect of fulness, authority, and accuracy ; while for some reasons, the case of Pitts—considering his disadvantages—appears to be the most wonderful of all. The errors of Burckhardt are for the most part pointed out by Burton ; and yet there are mistakes even in Burton's famous work, which have been allowed to continue to appear even down to the latest edition. Upon the whole, the cases of all of the travellers shew how difficult it is to be strictly accurate, even when one is an eye-witness of the thing he describes, and is influenced by the best intentions, and has every motive to study exactitude of statement. It is matter for congratulation that so many as three in the list were present in the Sacred City during the whole or part of 'the holy month of Ramazân'; and still further, that one at least was there on the occasion of the Hajju'l-Akbar.

It is not our business here to enter into the delicate subject of casuistry. The conditions, however, on which alone the journey to Makka might with safety be made, are such as but few men would be found willing to comply with. Over and above the physical discomforts which, to a European, the journey necessarily involves, Burton expressly tells us, as lately as 1879 (at which time he gives us his ripest judgment), that the one condition of safety from violence in the case of a person not a Muhammadan performing the journey, would be the declaration at Cairo or Damascus, before the civil and ecclesiastical authorities, that he embraces the Islâmic Faith. Concurrent testimony is borne by Wellsted. Of course, if a man is sincere in such a declaration (as Burckhardt is held by some to have been, and as he himself professed to be) there is no deception practised. But how a man professing himself a Christian, and yet making such a declaration, could sustain the disguise without being aware within himself that he was acting and speaking in contrariety to the law of God, is a phenomenon in psychology which we have not yet seen explained. Indeed, over and above the patent fact that the character throughout is a double one, whoever may sustain it, even Burckhardt confesses to having had to resort to conscious *falsehood* in order to preserve his incognito :—'If any question,' says he, 'arose about my origin, I stated myself to be a reduced member of the Mamelouk corps of Egypt, and found it easy to avoid those persons whose intimate knowledge of that country might perhaps have enabled them to detect the falsehood' (vol. i, p. 184).

To us it seems that the spirit of adventure, the passion for travel, the natural curiosity to stand where no other man has had the courage to stand, a hankering after the prohibited, a 'sneaking affection' for the element of danger,—these, and kindred sentiments have, some or other of them, more to do with the self-imposed task of 'going to Makka' than either the interests of science or the concerns of religion. That really intelligent men, as most of the travellers were, should have felt themselves led on by the sincere conviction that the visit to Makka was enjoined upon them by Divine command, and was the sure and only way to secure the forgiveness of sin and a title to heaven, is not for a moment admissible ; and if they were not possessed of this conviction, they were not 'Musalmâns,' as they professed to be. But when, in truth, men have been seized by such aspirations as those we have enumerated, moral considerations are apt to lose their keenness. If the adventurous men who run the gauntlet of the Sacred Cities of Islâm, would but make a clean acknowledgment of this, it seems to us that they would be less likely to imperil their own self-respect. The key to this, and to all similarly perilous adventures was, as we believe, given long ago by a Roman poet, in one of his characteristic home-thrusts at human frailty,—*Nititur in vetitum semper, cupimusque negata*—"We always strive after the forbidden thing, and desire things denied !" 'What remained for me,' says Burton (i. 22) 'but to prove, by trial, that what might be perilous to other travellers, is safe to me. The *experimentum crucis* was a visit to El Hejaz,—at once the most difficult and most dangerous point by which a European can enter Arabia.' And again (ii. 186),—'But, to confess humbling truth, theirs,' (he is alluding to his Muhammadan fellow-travellers) 'was the high feeling of religious enthusiasm ; mine was the ecstacy of gratified pride.'

There is, as the reader will have perceived, an essential difference between the circumstances of Pitts' visit and those of the visits of the other travellers : *he* was not guilty of voluntarily avowing his relinquishment of his religious belief, or his adoption of the religion of Makka. His visit was not the outcome of any desire for mere travel, or of antiquarian curiosity, or of aspiration after fame. His narration, moreover, of what he saw in Makka is accompanied by the expression of sentiments the sincerity of which it is impossible not to perceive, and which in human eyes must amply exonerate him as to all moral responsibility in respect of his visit,—amply proving, as they do, that, notwithstanding his contact through so many dreary years with the absurdities of the Muslim superstition, his mind still kept free of the moral evils which characterize that system. And to the honour of pious domestic influences,



even in the homes of the poor, it has to be recorded that there are many things which occur in the course of Pitts' narrative that reveal the care bestowed by his parents in the formation of his religious ideas. But if the visits of the other travellers had been, as little as his visit was, the result of their own choice, they too, would perhaps have interwoven with their narratives similar indications of ingenuous feeling and pious training.

Finally, we write not for the purpose of awakning in the mind of any a desire to follow in the footsteps of the travellers we have named. No very material addition to our knowledge regarding Makka and Madîna could be made by any other traveller who might now go. To contribute much worth having, would, in fact, after such men as 'Ali Bey, Burckhardt, and Burton, require such a knowledge of Arabic and so much of Oriental research as but few Europeans may ever hope to possess ; for what was at one period a literal *terra incognita* to all persons not Muhammadans, has by one and another been so thoroughly subjected to observant and learned exploration that, though the Holy Land of the Muslim is still to ' Infidels' the same forbidden ground that it has been for more than twelve centuries past, there are materials at hand by which one might, for all practical purposes, become as familiar with the place as with any other locality in the world which he has not himself actually visited.

J. D. BATE, M.R.A.S.

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#### ART. IV.—“ON THE TREATMENT OF ORGANIZED CRIME.”

**I**N almost every country in the world in which crime exists, and in which civilization endeavours to cope with its existence, a distinction is drawn between crime which is caused by casual circumstances, by accident, or by great and pressing want, and crime which is the outturn of deliberate forethought and of careful organization.

With the one class of crime the ordinary law is sufficient to deal: Crimes like murder, violence, theft from the pressure of hunger, and crimes involving breaches of trust, are the acts, as a rule, of single individuals; are spasmodic in their occurrence, and do not require exceptional treatment, any more than the ordinary diseases, to which flesh is heir, require special remedies affecting persons other than those who are the immediate sufferers.

There are, however, to pursue the analogy, certain classes of crimes which, like certain epidemic diseases, require a treatment differing from the ordinary course pursued in every day diseases. And, as in the cases of cholera, small-pox, and other epidemics, it is sometimes necessary to adopt a course which is exceptional, and which, to a certain extent, imposes rules on the public, compelling people, it may be, to alter the even tenor of their ways. So, in cases where certain classes of crime is found to be prevalent, an exceptional procedure is very often found to be necessary and efficacious towards the stamping out of the evil which such crime inflicts on the public at large.

With all due respect to the leaders of the present Conservative government, the Crimes Act in Ireland was a notable example of this. The history of legislation for the prevention of crime in Ireland, during the last twenty years, amply bears out the theory, that exceptional, and above all, organized crime, requires exceptional and drastic treatment; that such treatment is, as a rule, successful, and, that its abandonment is the signal for a fresh outbreak of the evil which it was expected to check. I have on my table a book, “The Recollections of an Irish Journalist,” by Richard Pigott, which amply bears out what I say. This book is written from an extreme Fenian point of view. It is a lament over the failure of the various attempts that have been made to acquire independence for Ireland. It is one of the highest tributes that could be given to the energy and foresightedness of those men who feared not to incur responsibility and to take action where action was

necessary, to prevent Ireland being the scene of bloodshed and civil war.\*

In these later days, we have seen the effect of special legislation for crime. There is no question whatever, but that the power which the government assumed of changing the venue of trials for agrarian outrages, and for murder, which were the natural outcome of the teaching of certain members of the Land-League, had a great influence, not only in obtaining convictions, but also in checking crime. The power, which was never used, of holding a trial without a jury, but, before three of Her Majesty's judges, was a still greater deterrent to these ruffians who, as long as the ordinary law was in force, defied detection and laughed at the farce of a so-called judicial trial, with the certainty of a triumphant acquittal at the close of the legal pantomime. Still more recently, it has been found necessary to resort to special legislation for the purpose of countermining the diabolical schemes of O'Donovan Rossa and the dynamite section of so-called Irish patriots. The result of this legislation has been a triumph for law and order over organized crime; and, the conviction of as black-hearted a set of scoundrels as ever figured in the annals of crime. Without entering, therefore, on the methods taken for the suppression of organized crime in foreign countries, I think it is clear, from the recent history of our own country, that organized crime can be coped with and put down by the introduction of measures of procedure specially designed to meet such crime. The telegrams which we receive almost daily also bear me out in urging the danger of abandoning such a safeguard as this special procedure provides. With the abolition of the Crimes Act in Ireland, boycotting, moonlight visits, and every other form of Land-Leagueism are once more coming to the front, despite the efforts of Mr. Parnell and his party to check them. Exception may be taken to my associating agrarian crime with the Land-League. I do so deliberately, and with a firm conviction that the reign of terror through which Ireland has passed, and which seems, unhappily, to be reviving, was the immediate outcome of that socialist movement against property which has not, I am sorry to say, been confined to Ireland alone, but threatens to attack vested interests in all parts of the empire. Upon this criminal organization, called the Land-League, Mr. Parnell was borne to power. He and his followers would gladly now suppress the operations of the League, but they find they are powerless to do so. He and his friends have used the terrorism of the "village ruffian" to waft them into power.

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\* These was written just after the Conservative Government had withdrawn coercion. They have had to re-impose it since, with results disastrous to their existence.

The village ruffian now knows *his* power, and will not take a back seat until such a time as a successor to Mr. W. E. Forster arrives in Ireland to shew the people that the unbending spirit of a Cromwell has not wholly died out amongst English statesmen, and that exceptional measures will be used to check organized crime. To any one who considers organized crime of any description, as a disease in the body politic, requiring prompt and efficacious treatment, and one which cannot be left to ordinary commonplace treatment, it is a matter of surprise that *all* such crime is not made the subject of special procedure, and is not reduced by drastic remedies. Organization in crime, as in everything else, gives a power to the furtherance of the object with a view to which it is undertaken, which no amount of individual effort can ensure. The individual sacrifices his interests to the common object, and is ready, if circumstances so direct, to imperil his liberty for the furtherance of the project to which he and his comrades are pledged. Those who are fortunate enough to escape arrest and detection, work for the purpose of liberating their less fortunate brethren. They leave no stone unturned to ensure the release of those who have been made captive, and direct all their energies to thwart the operation of the law in bringing to punishment those who have transgressed and been found out. We have, therefore, instead of a single individual, fighting his own corner, a set of men banded together to accomplish the acquittal of those of their number who have unfortunately been detected in the carrying out of the crime, for the successful committal of which the original association has been formed.

This brings me to the subject to which I wish to invite public attention in India, and especially in Bengal, where the little experience I have acquired has been obtained. I mean the prevention of the one organized system of crime prevalent in those provinces—the crime of dacoity. That dacoity has assumed proportions more or less alarming in Bengal, is borne out by the fact that, within the last month, it was thought desirable to assemble a conference of police officers at Darjeeling to discuss the measures which might be, with the best advantage, employed towards repressing this crime. The result of the deliberations of those officers has not yet been made public, but even with the result pending, I venture to make a few suggestions, which might be deemed worthy of consideration, in the event of any decisive measures being taken for the prevention of the *one* crime with which the police have failed to grapple, and the existence of which I consider to be a blot on our administration. For the benefit of those whose duties do not lead them into any connexion with police work, I will briefly state the nature of the crime known as

dacoity. I will shew what I consider to be the reasons why justice has hitherto failed in coping successfully with dacoity, and will, with all due sense of the probable Quixoticism of my opinions, give what my limited experience has taught me to be the best means of stamping out a crime which prevails to an alarming extent in the eastern districts of Bengal, if not all over the Province. My sole object is to invite public attention to the question. My views may be altogether unpractical and wrong, but if their expression calls forth a remedy against an existing evil, though that remedy be one of a totally different nature to that which I, with great diffidence, put forward, I shall have accomplished the object with which this paper has been written. The definition of dacoity, in the first place, assumes an organization. The definition runs as follows: "When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission and attempt, amount to five or more, every person so committing, attempting, or aiding, is said to commit "dacoity." For the benefit of non-professional readers, I may simply say that robbery is theft or extortion accompanied with violence. This definition will shew, at a glance, that there is a possibility of dacoity without organization, or what we know as technical dacoity, such as where an agrarian row takes place, some paddy is forcibly taken away, and the number of persons concerned in the taking away of the crop amounts to five or more. With such dacoities I have at present no concern. I wish to treat of dacoity committed by bodies of men organized for the purpose of committing robbery or housebreaking, and generally under the direction and generalship of some openly respectable individual, who is nothing more or less than the receiver of the property stolen in the forays which these dacoits undertake to carry through. This latter class of dacoity, which is, after all, the only form of real dacoity, may in its turn be subdivided into two classes—land dacoity and river dacoity. I will give a brief description of each kind derived from the recollection I possess of cases which have come officially before me. In a land dacoity the course adopted is something like this: A resident, say of the Dinagepore district, sends word to a number of his friends in the Purneah district, that he wishes to see them at the ensuing hât or market. They all come over, ostensibly to do marketing, and there a certain man is indicated as a likely subject for plunder. Arrangements are made, and on a fixed night the unhappy victim is awakened by a flare of torches and the apparition of a number of men with their heads tied, up, and more or less disguised, who administering a few blows,

varying in severity with the resistance they experience, remove every article of value out of the house and decamp. The plunder is generally brought to an appointed place and distributed. I think it will be within the experience of nearly every magistrate and police officer in Bengal, that an abject funk pervades the entire village during the sojourn of the dacoits. The plundered man is left to cope with his plunderers and the rest of the village, including the chowkedar, observes a masterly inactivity until such time as all danger is over and the dacoits have decamped with their booty. After this time the chowkedar comes gallantly to the front. He offers to bring the news of the outrage to the nearest police station, and villagers who have been hitherto hiding under charpoys, and behind their houses, are prepared to swear that they saw the entire proceedings and recognized the delinquents as up-country men, now seen by them for the first time; when, as a matter of fact, they could, if they had liked, have spotted every man as a resident of villages bordering on the district, and as well known to them as any of the habitués of the weekly fair. The case is thus reported by the chowkedar, and the enquiry in due course is set on foot. With this enquiry I shall deal hereafter. I am now merely describing the nature of dacoities. The river dacoit is a much more daring and much more successful plunderer. The object of his ambition is the robbery of boats, and I am afraid he is generally a winner in the game he plays against society. Anyone who has travelled in the Eastern districts must have noticed the many places where hundreds of boats are anchored, bringing down produce from one part of the country and taking back produce from the other, or, which is a greater godsend to the dacoit, bringing down jute or produce and returning with hard cash. These boats are the prey of your river dacoit. The *modus operandi* is this. The dacoits charter a boat, or more often own one, and put on board a cargo of sorts. They drop down the river and anchor amongst the crowd of boats that have assembled there, upon purely legitimate business. Meetings at the grog shop, and other places of public resort, give the dacoits all the information they require as to the number of hands on board, the amount of plunder to be anticipated, and, in fact, everything they want to know in furtherance of their purpose. The soiled doves of the various centres of river trade are, as a rule, invaluable allies to the river dacoits in giving information. Information being thus acquired, the dacoits wait their opportunity, and on some dark night quietly cut the mooring rope of the boat which they intend to rob, and let it drift down the stream. They follow it in a swift rowing boat, board it, and plunder it. Disguised as they are,

it is impossible that they should be recognized. The owners of the boat that is being plundered have either the choice of an immediate stampede and a swim ashore to save their lives, or as is, I am afraid, often the case, an involuntary plunge into the river with a gumlah tied round their neck, to ensure no tale being told. In some instances the boats, if they contain only cargo, are deliberately taken off and palmed off as the property of the pirates, the cargo sold, and the boat utilized for future gain. In cases where money is obtained, the boat is generally let go adrift, and is found on a chur perhaps a week after the robbery. These are pretty accurate descriptions of the two varieties of dacoity of which Bengal has the privilege of enjoying. There is nothing extenuated or ought set down in malice. I think it will be generally admitted that justice has hitherto failed to grapple with dacoity. I am far from saying that results, in some districts, have not improved within recent years, but, I am strongly of opinion, that a very large percentage of the dacoities that actually take place are never reported at all, and with the exception of now and again, when a good capture is made, the percentage of convictions, in reported dacoity cases, is far from being satisfactory. The police are, of course, in the first instance, blamed for these results. I think unfairly so, or that, at any rate, more is laid to their charge than the facts of the case warrant. It is easy to criticise the action of the police, and to put them down as everything bad, and lazy, and corrupt. The difficulties with which they have to contend are not always fully realised by those who are loudest in their dispraise. Let us examine the conditions under which a police officer takes up an enquiry into a dacoity.

In the first place, as we have seen, no effort is made, or is very seldom made, by villagers themselves to arrest and bring to justice those who commit dacoity at the time of the commission of the crime. The victims are, as a rule, paralyzed with terror, and the neighbours are too apprehensive of their own danger to thrust themselves prominently forward. The first clue, therefore, to ensure a successful issue is generally absent, *viz.*, the identification of the persons who commit this crime and their immediate seizure. Coupled with this, there is a further element which works detrimentally to securing the right men, and that is, the irrepressible inclination on the part of the inhabitants of this country to utilize the occurrence of a crime as an opportunity to work evil to their immediate enemies, and to accuse them, without any hesitation, as being the perpetrators of the crime which has taken place. In a land dacoity, therefore, the police have to start, either without a clue at all; or, with what is worse than no clue, on an entirely false scent. In a

river dacoity the police are still more heavily handicapped ; both the victims and the dacoits are strangers to each other and to the police. The system of patrol boats, which exists on the large rivers, is but a poor preventive means. The patrol boat is as well known as the magistrate's boat, and all the dacoits have to do is to wait until the police boat is well out of the way before they begin their work. I am aware there is an obvious answer to this statement of the difficulties with which the police have to contend, and that is, that in no country do men commit crime openly, and that clues are not, as a rule, met with ready to hand in any cases of crime. True, but in Bengal there is an additional difficulty put in the way of detecting any carefully organized crime, and that is the procedure which has to be undertaken between the arrest of the persons suspected and their final trial.

When the police enquiry is over, and the accused are sent up for trial, it most commonly happens that the investigating police officer relies on a confession, either true or false, obtained either voluntarily, or by means of extortion or persuasion. It is almost impossible to instil into the mind of an average inspector that a false confession is simply fatal to a successful issue of a case, and that even a true confession, is always looked upon with suspicion and, in many instances, wrongly distrusted.

However ; true or false, the confession is recorded by a magistrate and evidence is gone into against the parties sent up. This evidence is taken by an officer to satisfy himself of the existence of a *prima facie* case being made out against the prisoners, and they are then committed for trial to the Court of Sessions. I look upon this procedure as a sort of insurance against conviction, to persons who are accused of organized crime and whose friends are on the alert to watch over their safety. In the first place, it is generally found to be the case that once all efforts at bribing the police, and preventing by every possible means the arrest of the persons accused of dacoity have failed, the second stage of the proceedings, (the enquiry before the magistrate,) is not regarded with much interest, either by the accused or their friends. They have made up their minds that to the Sessions they will have to go, and they abandon their intermediate defences, and gird up their loins for the field-day at the Sessions Court. Some time must necessarily elapse between the two trials, and it is interesting to note how almost every circumstance works in favour of the dacoit owing to this dual procedure, and to the time which must elapse between the enquiry before the magistrate and the trial before the Court of Sessions. In the first place, the misguided zeal and the questionable honesty of the police has to be contended against. Once a confession is recorded and the accused are



safe in their jailor's or home, the police have a wonderful knack of accumulating evidence against their victims. In perfectly true cases they will, at times, seek to make security doubly secure by the discovery of stolen property, identified and sworn to by marks which the owner never thought of in his life before. All this goes to throw discredit on the entire case, and works out the ultimate salvation of the dacoit at the Court of Sessions. Where this element of safety is absent, there comes in the great safeguard of two sworn statements being required, one before the committing magistrate, and one before the judge and jury, or assessors, as the case may be.

Now, assuming that witnesses have every desire to speak the truth, it is almost impossible for ignorant persons to avoid making discrepancies in statements given at an interval of, it may be, two or three months. These discrepancies are laid hold of by the defending counsel, and are the most powerful arguments to the minds of an average Bengal jury. The Bengali mind is of a hair-splitting order, and where a British jury would look at a case from a broad point of view, a Bengali jury consider themselves as uncommonly sharp when they acquit a prisoner on the ground of discrepancies, which the judge has probably told them are proof that the story told by the witnesses is not a made up one. A case, therefore, in which witnesses are actuated by every desire to tell the truth, and ensure a conviction, may break down owing to the present procedure. How much more so is a dual enquiry and delay fatal to a case in which no such desire exists on the side of those upon whose evidence a conviction is hoped for? Witnesses leave the magistrate's court and return to their homes. Then begins the real business of the friends and comrades of the dacoits. Bribery, threats and persuasion are put into full force, and the result is that the witnesses go before the Court of Sessions, either with a totally different story to that which they told before the magistrate, or, where they have been instructed, with a story sufficiently similar to save them from a prosecution for perjury, but differing in material points to an extent to make the two statements irreconcilable. The confessing prisoner has, of course, been instructed to withdraw his confession, and to say that it was extorted from him by the police, and in many cases his is, I suspect, about the only absolutely true statement on the record. Now the remedy I would suggest for the stamping out of this crime is, by treating it as one would treat an epidemic disease, and by applying special methods of procedure to the trial of cases of dacoity. I would first of all put forward the idea of a special tribunal for the trial of these cases, and the appointment of special officers to enquire into the subject of dacoity and its prevention. That a speedy

trial is absolutely necessary to ensure conviction in true cases, is, I think, admitted by all who have ever had to deal with this crime. The time elapsing between the enquiry before a magistrate and the final trial, is a golden hour for the guilty, and I would unhesitatingly recommend its being abolished. If dacoits were brought up once and for all before an officer of experience, and were either acquitted or convicted, there would, I think, be a sensible diminution of this crime. The opportunity that is at present given for corrupting good evidence, and on the other hand, for fabricating bad evidence, is one of the most fatal drawbacks to the successful treatment of this crime, organized as it is, by well-to-do men, and men who will leave no stone unturned to carry it to a successful issue. I would suggest that one or more officers of *judicial* experience should be appointed to various centres where dacoity is prevalent, and should take up these cases once and for all, and dispose of them without any preliminary investigation before a magistrate. It would be undesirable that executive officers should undertake this work. It might be said that their position as head of the police would predispose them against persons accused of dacoity. This could not be said of officers whose duties lie wholly on the judicial side of the service. The whole question, however, requires a close enquiry. There is no doubt of the prevalence of the crime in Bengal, and a commission should issue as to the best means of dealing with the evil. If one were to go by the *published* returns of cases of dacoity, it might be said that no cases has been made out to justify exceptional measures. I do not go on the published returns alone; I go upon what I believe to be the fact, that dacoity is a crime, the existence of which is, to a great measure, concealed. It cannot be wondered at that it is concealed. This is a country where men do not believe in the idea of public spirit, nor do they "because right is right follow right."

They think twice before they invite a police enquiry in their midst. They abandon the idea altogether when they know that the result will be a tramp of some miles into a head-quarter station, and the remaining there for perhaps some days. Then there is the return again to give evidence before the Court of Sessions, and the result of either undergoing a trial for perjury themselves, or going back in fear and trembling, having incurred the undying hostility of the powerful clique whose friend they have been the means of relegating to rigorous imprisonment.

There is another reason which leads me to think that dacoity, despite the returns of reported crime, is on the increase, and that is the increased facilities for travel which are opening out daily to the public. It may seem an extraordinary thing to say, but it is true, nevertheless, that railways, in the universal good they do to

the country, are a blessing to those who live by organized crime. Like the rain of heaven, their benefits fall alike on the just and the unjust. The construction of a railway in Bengal is the signal for every bad character in Behar to change his name and seek fresh fields and pastures new, in that part of the country where the Darogah knows him not, and where his midnight slumbers are not liable to be disturbed by the village chowkedar. When the railway is made, he, like more honest men, enlarges his scale of operations. He scorns an attack on some neighbour, accompanied, as it is, with the greater risk of detection, and boldly extends his connexion with receivers of stolen property in districts where he is entirely unknown, and from which, an early morning train takes him in comparative safety to the place which he elects to make his basis of operations. Some years ago officers were ordered to observe and report upon the habits of the Gangetic porpoise. I think it would not be a bad move if a commission were given to some experienced men to observe and report upon the habits, especially, the migratory habits of the Bengal and Behar dacoit. My views, as I have said before, may be mistaken. They are given with much diffidence. They are put forward, however, with a hope that they may call attention to a subject which intimately affects the well-being of a large class of the community, those whose lives are spent in the outlying villages of Bengal and Behar. The success which special legislation has had in checking special and organized forms of crime in other parts of the Empire, leads me to the conclusion that there would be no harm, at any rate, in applying special legislation to the one form of organized crime which exists in Bengal, and the suppression of which, I think, I am right in saying, has hitherto baffled the efforts of ordinary legal procedure.

A. C. TUTE.

## ART. V.—THE TRIAL OF MAHARAJA NANDA KUMAR.

### PART II.

*(Continued from the Calcutta Review, January 1886.)*

**B**EFORE proceeding further with my narrative, I wish to state that since the first part of this article was in print I have obtained ample evidence that Belli was Hastings' secretary in 1775. The first mention of him which I have found is in 1772, when he appears as a witness to Hastings' covenant. Then there is a letter from him, dated 5th January 1775, and addressed to Mr. Goring of the Calcutta Committee of Revenue. It appears that one Didaru had obtained a decree in the Revenue Court for the possession of a house. Kachla Bibi, the defendant, had complained to Lemaistre and he, it was said, had ordered that she should be restored to possession. The Committee asked the Governor what they should do, and Belli replied, "The Governor further directs me to acquaint you that for your present guidance you are not to controvert the authority which the Supreme Court of Judicature may think fit to exercise." (Bengal App. p. 581.) The fullest reference to Belli is contained in the debates in Council about his agency for revictualling Fort William. On 4th November 1776,\* Hastings brought forward his plan for victualling the fort, and Clavering drew up a minute objecting to the plan. Hastings, in December 1776, rejoined as follows: "In the opinion given by General Clavering, upon my proposal for laying up a store of provisions for the garrison of Fort William, his usual temper has displayed itself by an attempt to vilify the plan with hard and coarse invectives. Instead of offering any objections to the propriety of it, artifice and affected zeal for the Company's prosperity, projects of private benefit, and jobs to serve a private dependant are the expressions and reasonings by which a member of this State examines the utility of a public measure. He has perhaps heard, or, if he has not, I will now declare that I do mean to propose a gentleman of my own family for this trust; I mean my secretary, Mr. Belli; not because he is a private dependant whose services and fidelity for more than four years past have received no higher reward than a salary of Rs. 300 a month, but because I think the due discharge of this trust of such importance, and so immediately my own province, that

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\* Monson had died in the previous September, so that Hastings and Barwell could carry everything before them.

I wish to employ in it the person on whose honour I can place the best dependence" (Minute of 2nd December 1776.) To this Clavering made the following rejoinder: "Without the express authority of the Governor-General I could not have ventured to suppose him capable of proposing a person to exercise so great a trust who is not in the Company's service, and still more, that this person should be his own secretary. Upon a rough calculation, I conjecture the cost of the provisions to be furnished will not be less than three lakhs of rupees, and consequently, the Agent's commission, at 30 p. c. is Rs. 90,000." The Court of Directors by their letter of 28th December 1778, ordered that the commission should be reduced to 20 p. c., but by that time the agency had been converted into a five years' contract! Belli's letter to Impey, from which we learn that he forwarded the complaint of the foreman of the jury concerning Farrer, will be found in Impey's letter of 20th January 1776. (References to General Appendix, No. 3, to Report on Touchet's petition.) The agency and the contract given to Belli were one of the subjects of the 6th article of charge against Hastings. The case was surely a gross one, for three merchants, Croftes, Robinson and Sullivan had stated that 20 p. c. was a sufficient commission for the agent, and Hastings raised it to 30.\*

Having in Part I. traced the history of Ballaki Das and of Nanda Kumar's affairs down to 1772, I proceed to sketch briefly what occurred subsequent to Hastings' return to Bengal.

Hastings arrived in Calcutta on 17th February 1772, but he did not take his seat as Governor till the 13th April following. The reason for the delay was that the Directors had ordered that Mr. Cartier might continue in the government till the departure of the last ship of the season for Europe after the arrival of Mr. Hastings, "on, or before which time, it is our pleasure that Mr. Cartier do resign the government to Mr. Hastings." The letter conveying these orders is dated 25th April 1771, and from it, it appears that Mr. Cartier had been removed because he had joined in a resolution to retard the execution of the Directors' orders. By a previous letter of 10th April, Hastings had been

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\* Mrs. Fay tells us that Hastings' character was never to forget a friend or to forgive a foe. We have seen how he cherished hatred to Nanda Kumar long after he had murdered him, and on 15th October 1783 we find him regretting that he had been obliged "to accommodate a former engagement to poor Belli to make room for Mr. Dent," but adding that Belli had an office with which he is satisfied, though much inferior to the other (a salt-agency). Apparently the office which satisfied Belli was that of Post Master General. (Seton-Karr's *Selections from C. Gazette*, p. 4.) In a letter of 10th November 1780 Hastings joins Belli with Elliot, Bogle, Sumner and D'Oyly and says they were all "men of eminent merit, and universally respected, but unfortunately known to have attached themselves to me."

appointed second in Council at Fort William, and to succeed Mr. Cartier as president and governor of Bengal.\* It was probably either this appointment or that of Supervisors, when Hastings was rejected,—according to Scrafton, because he had too many crooked lines in his head—which gave occasion to Clive's remark that he had never heard of Hastings' having any abilities, except for seducing his friends' wives. By that time, Clive may have heard of such part of the Imhoff episode, as had taken place on board the Duke of Grafton or in Madras.

One of Hastings' first acts was to arrest Mahomed Raza Khan and bring him down to Calcutta. This was done in accordance with the orders of the Directors, who told Hastings in a confidential letter, to issue private orders for the securing the person of Mahomed Raza Khan, together with his whole family and his known partisans and adherents, and to make use of such measures as his prudence suggested for bringing them down to Calcutta. The reasons for this order were that Mahomed Raza was supposed to have embezzled the revenues, and also to have monopolized rice during the famine of 1770. This last charge was brought against him by Hazari Mal, who, though the brother-in-law of Amichand, was described by Hastings to be as upright and conscientious a man as any he knew.

At about the same time, Hastings caused Shitab Rai, the Naib Diwan of Bihar, to be arrested and brought down to Calcutta. This had not been ordered by the Directors, but Hastings and the Council considered the step advisable and consistent with the tenor of the Directors' instructions.† They judged rightly, for on 16th April 1773, the Secret Committee wrote, that the apprehending of Shitab Rai was necessary, as he had been too long connected with Mahomed Raza to be independent of him. This might be satisfactory to Hastings, but it did not make the arrest and degradation of Shitab Rai the less a piece of cruel and cold-blooded injustice. He was acquitted the following year, and Hastings quietly wrote: "I never thought him culpable; I never accused him, nor did the Court

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\* From a paper in an appendix to one of Burke's reports, we learn that Hastings' emoluments as Governor of Bengal were £3,000 a year, a duty of one p. c. on the mint, 4 p. c. consulage on coral, and a commission on the revenues of the Company. It seems that two and a half p. c. calculated on the net profits of the Company's territorial revenues was allowed to the Company's servants. The sum realized was divided into one hundred shares, and thirty-one of these were allotted to the Governor as compensation for his not being allowed to trade, and for his not being permitted to receive presents. I do not know the total of these gains, but suppose that it fell a good deal short of the £25,000 which was given to the Governor-General by the Regulating Act.

† According to the Sur, it was Graham who was primarily responsible for the arrest of Shitab Rai.

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of Directors express any suspicion which glanced at his conduct." In another letter he writes : "I have taken much pains to investigate the conduct of Rajah Shitab Rai ; I can discover no defect in it ; he has shewn himself an able financier." Again, he writes that Shitab Rai will escape with credit, and that he scarce knows why he was called to account. The fact seems to be that both arrests were made because the Company had resolved to stand forth as Diwan and to get rid of the native Naibs. They wished to economize Mahomed Raza's nine lakhs of salary, and to employ European agency.\* Shitab Rai died of a broken heart, it is said, † shortly after his release, and Hastings tried to make compensation for his unmerited sufferings by appointing his son, Rajah Kalyan Singh, Rai Rayan for Bihar.

All authorities agree in giving Shitab Rai a very high character and yet he was trained under much the same circumstances as Nanda Kumar. When Sir J. Stephen says that a successful man, in circumstances such as Nanda Kumar's, could hardly be other than Nanda Kumar was, "false all through and dead to every sentiment except pride, hatred and revenge," I feel inclined to ask how he would account for Shitab Rai.‡ More-over the statement that Nanda Kumar was false all through, is contradicted by the testimony of his bitter enemy, Hastings who says that he was always faithful to his master, Mir Jafar.

Under the orders of the Secret Committee, Hastings employed Nanda Kumar in the inquiry against Mahomed Raza, but when this ended in an acquittal, Nanda Kumar naturally received no reward but rather fell into disgrace. The truce was at an end, § and in March 1774, Hastings was writing of

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\* The proclamation divesting Mahomed Raza Khan of the office of Naib Diwan, and announcing the intention of the Court of Directors to stand forth publicly as Diwan, was published by Hastings as early as 11th May 1772. (Harington, II, 189.) It made no provision for the discharge of Mahomed Raza's duties as Naib Nazim. These included the administration of criminal justice, and were, I imagine, left to the Nazim (Mubarak-ad-daula) to arrange for.

† Macaulay got his statement to this effect from the Sair.

‡ It is true that he came from Delhi, but he spent his life in Bihar and in the service of the Nawab of Bengal and the Company.

§ Sir J. S. says (I, 46) "I have stated in the last chapter the points in Nanda Kumar's career which brought him into contact with Hastings, and which must, beyond all question, have inspired him with a deadly hatred for Hastings." There is, however, nothing in the previous chapter to account for Nanda Kumar's deadly enmity, supposing it to have existed. His getting the better of Hastings in the matter of the collections of Bardwan, could not be a grievance to him, and it is only by a blunder, (perhaps clerical) that Sir J. S. refers, in a note to a correspondence between Clive and Hastings in 1758, as connected with Nanda Kumar's deposition in 1765. With this last point, Hastings had, of course, nothing to do, as he was in England at the time.

Nanda Kumar as a dark and deceitful character, whom no gratitude, no kindness, could bind, nor even his own interest disengage from crooked politics. It may be that Nanda Kumar was not grateful by nature, but I cannot discover that Hastings ever put him to the test. He compares him to the viper whom the countryman cherished in his bosom till it revived and bit him, but he does not tell us what were the favours he conferred. According to Nanda Kumar, if any gratitude were due, it was due by Hastings to him for having helped him with his local knowledge. On 13th March 1775, he said, "Mr Hastings, until he had informed himself from me of the affairs of this country, remained excessively well-pleased with me. When he had this knowledge from me, he no longer consulted me ; instead of my patron, he became my enemy, and acted as such." This agrees with Hastings' own language and with the orders of the Directors. So long as Nanda Kumar was likely to prove useful he was patronized and encouraged to hope for advancement, but when the prosecution of Mahomed Raza failed, and Hastings no longer wanted instruction, he was discarded. He did not succeed in what he had undertaken, and as the Company had no intention of reappointing Naib Diwans, the contemplated reward was never bestowed. Hastings may have employed Nanda Kumar against his inclination, but however meritorious this might be, and however justly it might entitle him to the thanks of the Directors, it could not alter the fact that Nanda Kumar was deceived. Hastings certainly did not tell Nanda Kumar that he was his enemy, and that he only employed him under the orders of the Directors, and because he might be temporarily useful.

It was while Nanda Kumar was in disgrace and smarting, under the disappointment of his hopes and the non-fulfilment of Hastings' promises, that the Members of Council arrived in Bengal. Possibly Nanda Kumar had been looking forward to their arrival and plotting with Joseph Fowke, who must have been in Calcutta for some time, as Hastings speaks of Fowke's having sent him letters from there to Madras. (Gleig I, 190.) Fowke was apparently a Persian scholar and had been in India before, and it is therefore likely enough that he and Nanda Kumar had had interviews. According to Hastings, when Fowke went down to Khejiri to met the *Anson* and the *Ashburnham*, he took with him a long list of malversations, Hastings supposed this the same as Nanda Kumar afterwards presented (Gleig I, 516) and if this was so, it is not clear where Sir J. Stephen got his authority for saying that Nanda Kumar largely supplemented in his petition the charges which he had previously circulated. (Stephen I, 54, note.) The Members of



Council arrived in October 1774, and at a time when there was plenty of material for an accusation of Hastings. Mahomed Raza and Shitab Rai had been acquitted, and though their acquittal may have been right, yet, as Hastings himself wrote, it was a matter in which it was not possible to steer clear of the imputation of injustice on one side or bribery on the other. Worse still, there was the Rohilla war. It had come to an end, but the ashes were still smoking, and Col. Champion and Hastings were at feud.

The new members wanted to see Hastings' correspondence with Middleton, but he would not produce it, and they had therefore no alternative but to recall Middleton. We are told that Middleton's recall made Shuja-ad-Daula burst into tears. (Gleig I, 469) This is not improbable. It must have been sad for him to think, that when he had expended so much in bribes, he would now have to begin the process over again! It has generally been supposed that Hastings suppressed the correspondence with Middleton because it would have convicted him of bribery. This is exceedingly likely, and one is justified in presuming all things against one who suppresses evidence. This is the *peine forte et dure* appropriate to such a crime. It appears, however, from Hastings' letter to Lord North (26th February 1775) that he had another motive for concealment. He had plotted with the vizier to make him independent of the Company, and to enable him to enter into direct relations with the Crown (see Gleig II, 50—51.) A similar idea had occurred to Clive, and had led to his writing a remarkable letter to Lord Chatham. No doubt the Directors would have regarded such conduct as treachery, and would have come down heavily on Hastings in consequence.

I do not intend to discuss Nanda Kumar's charges against Hastings.\* It would occupy too much of my space, and also

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\* In treating of the proceedings in Council, Sir J. Stephen says, (I, 52.) that it appears "it was the practice of the Council, that the members should sit down during the meeting, and write elaborate essays upon important occasions. I do not think the minute in question could have been written by any one in less than an hour and a half; and whilst Hastings was writing, and the clerk copying—for it is not in his handwriting—the others must have sat silent."

I believe that this account is incorrect, and that unless when they brought them ready written, the members dictated their remarks and did not write them; that is, they spoke them, but they were at the same time recorded. Whether the clerks knew shorthand, as Justice Hyde did, I do not know. In a minute of 21st March 1777, Hastings says, "I drew up the minute, while the General and Mr. Francis were in possession of the Council table, and used the first interval which was allowed me to introduce it, which was not till after the hour of two in the afternoon. Had I waited to make this a separate motion and to take my share as usual in the dialogue which was to follow it, an entire week would not have been

I have treated of the subject in a former number of this *Review*. I may, however, remind my readers that many years later, Hastings admitted the receipt of  $1\frac{1}{2}$  out of the  $3\frac{1}{2}$  lakhs which Nanda Kumar accused him of having taken. Hastings alleged that this was only a fair sumptuary allowance; but granting that this was a good defence, it was one not likely to avail him with councillors who were such Puritans that they would not even take *dalis*. This last fact is chronicled by the Muhammedan historian, who evidently considers it something astonishing. Price, too, refers to it, and it is amusing to find that he argues in the same way as *dali* takers do at the present day, *viz.*, that it hurts the feelings of the givers to be refused. So the old game of cross purposes goes on, the native offers because he thinks he is bound to do so, and the Englishman accepts because he fears to hurt the giver's feelings. Price is very sarcastic about the councillors' virtue. He quotes their resolution of 30th November 1774, to refuse nazars, and has the following N. B. (sic) to Burke. "Are you able to keep steady the muscles of your face, Sir, on reading the above ridiculous and ostentatious display of mere legal honesty, so tightly laced? Outrageous virtue in the sons of Adam ought always to be suspected in whatever shape it appears." This extract serves to enable us to appreciate the dislike felt by the Europeans in Calcutta towards the members of Council, and their fury at the native who dared to denounce the receivers of presents. Price did not know, or did not choose to tell, that Hastings himself made an exhibition of tightly laced legal honesty. On 7th November 1774, we brought two bags before the Council, one containing 146 gold mohurs and the other 327 rupis of different sorts, and said that the contents had been presented to him by various persons from 1st August to 31st October. He said that he did not think proper to discontinue the practice, but accepted the presents on behalf of

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sufficient, though the board had met every day to bring them all to a conclusion. On this occasion I cannot avoid taking notice of the use, whether proper or improper, our superiors will judge, to which the General has, of late, especially, applied the privilege which he undoubtedly possesses of recording his sentiments by minutes dictated at the Council board. Scarce any subject, even of the most trivial nature, is allowed by him to pass without long comments and discussions, all more abounding in personal reflections of the points in question. While he is thus employed, I am doomed to the necessity either of exercising my patience by sitting in silent attention to the General, during whatever length of time he chooses to consume in this mode of gratifying his ill humour against me, or of composing my mind in the adjacent apartment to other business, which I can seldom find an interim of introducing, or to adjourn the Council, where my presence cannot avail to the dispatch of real business, and afford fresh cause of offence by my departure."

the Company. On this Barwell remarked : " What is proper for the Governor-General would in me, I apprehend, rather appear in the light of a consequential, insignificant display of rigidity in excess." No doubt he was right : Khwajah Michael and the unfortunate inhabitants of Dacca would certainly have regarded the production by him of Rs. 250, (which he says were all he received from the time of his coming down to the Presidency,) as an instance of straining at a mosquito and swallowing an elephant. They would perhaps have likened him to the lady celebrated in Indian story who was too prudish to allow the moonbeams to enter her chamber, yet would swim across a crocodile-haunted river to visit her paramour.

On 8th December, the Council wrote : " We have refused all nazzars. The Governor-General has given his reasons for accepting such nazzars and paying them into the Company's treasury : Mr. Barwell has also given his for accepting nazzars and not paying them over to the Company. Making every allowance for the force of prejudice and custom, they (the natives) are not so dull as to be incapable of understanding that it is possible to be their friends without taking their money." This last epigram refers to Barwell's plea that nazzars must be taken because the Home Government had enjoined that every respect should be paid to native customs. " I see their acceptance," he says, " in a light of the greatest propriety, perfectly consistent with the ideas of the Company, and suggestive of what they have always requested, attention to the particular prejudices, manners and dispositions of the natives "

There is a significance in the date, 1st August 1774, which was chosen by Hastings as the starting-point of his restitutions, for this was the date prescribed by Section 24 of the Regulating Act, as that after which no civil or military servant was to receive presents or gratuities. That Hastings did not go further back seems to show that he did not consider the receipt of presents illegal until they were made so by the Act.\* If such was his view, it would appear to have been wrong, for the Court of Directors had, as long ago as 16th March 1768, sent out a deed to be executed by Verelst, and by all subsequent Governors, binding themselves not to take presents. We are told that there was no evidence that Hastings ever executed such a deed, but on the other hand he had, on 10th February

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\* Hastings' defence before the House of Lords shows that this was his view. There, when speaking of the 1½ lakhs, he said " I will not pretend to deny, I never did deny that I accepted the usual entertainments (Ziafat) which were then (for it was previous to the Act of Parliament prohibiting the receipt of presents) usually given to the visitor by the visited."

1769, when appointed to Madras, signed an indenture that he would not take presents, and it was the opinion of Dunning that the obligation of this indenture extended to Hastings' subsequent stations, and was not confined to his then station. For my purpose, however, it is of no consequence whether the distinction was right or wrong. The important thing is that Hastings seems to have drawn it, for this adds to the probability of the truth of Nanda Kumar's accusations, seeing that they related to a time so far back as 1772. The parade of virtue, too, which Hastings made in November 1774, must have increased his feelings of mortification at being called upon to account for receipts of bygone times. It is therefore not surprising to find him thrown into a state of fury and despair by Nanda Kumar's charges. He spoke of him as a miscreant, an arch scoundrel, and a serpent, and said that informations were being raked up out of the dirt of Calcutta. He declared the meetings of the 13th, 14th and 17th dissolved, and wrote to his friends that, right or wrong, he had no alternative but to do this or throw up the service. Sir J. Stephen quotes a statement by Clavering that the prosecution of Hastings was not founded principally on the evidence of Nanda Kumar and Radha Charan Rai, and from this argues that Hastings had not much interest in destroying Nanda Kumar. (Stephen I, 215.) He omits to notice that Clavering was giving his evidence in July, after Nanda Kumar's conviction, which made him a felon, and I believe, incapacitated him from giving evidence. At all events, Clavering and his co-adjutors thought that it did so,\* for on 26th June they recorded that as Nanda Kumar's evidence was invalidated, if not entirely impeached by his conviction, inquiry should be made if a bill of discovery could not be filed against the Governor-General. Hastings was present when this minute was recorded, and merely remarked that it was unnecessary for him to give any opinion on the motion. This minute sufficiently accounts for Clavering's remark, which may be explained also by the question being double-barrelled—Radha Charan being referred to in it. It does not appear that the latter was ever regarded as an important witness.

That Clavering was not disposed to undervalue the evidence of Nanda Kumar is clear from his remarks of the 8th May, in the debate about his confinement in the jail. "The Judges probably are ignorant how much a close confinement may endanger the life of this man, which is of so much importance

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\* Apparently they were right, for Mr. Law, Hastings' senior counsel, objected to the admission of Nanda Kumar's evidence on the ground, among others, that the conviction for forgery made Nanda Kumar infamous, and that the infamy extended back to the period of the commission of the crime.

to the public for proving an accusation which he has made of venality in the Governor-General."

Hastings' conduct in dissolving the meetings of Council has been generally condemned, but Sir J. Stephen attempts to defend it. He, of course, makes light of such authorities as Burke and Mill, but I should have thought he would have yielded somewhat to a brother-lawyer, Mr. Sayer, who was the Company's counsel, and whom Sir James calls an eminent lawyer. Sayer's opinion was taken on the point, and while he considered that Hastings' procedure was technically maintainable, he characterised it as follows:—"The meeting of the Council depends on the pleasure of the Governor, and I think the duration of it must do so too. But it was as great a crime to dissolve the Council upon base and sinister motives, as it would be to assume the power of dissolving, if he had it not. I believe he (Hastings) is the first Governor that ever dissolved a Council inquiring into his behaviour, when he was innocent. Before he could summon three Councils and dissolve them, he had time fully to consider what would be the result of such conduct—to convince everybody, beyond a doubt, of his conscious guilt."

The danger to Hastings from Nanda Kumar's charges was not only in the weight of the accusations themselves. There was also the encouragement which they gave to other informers. Nanda Kumar was not the first person to bring charges of speculation, but he was perhaps the first who directly attacked Hastings. The *Malangis*, or salt-workers, brought charges of oppression in November 1774, which affected persons belonging to Hastings' household. But the first charge of bribery seems to have been brought by the Rani of Bardwan, widow of Trilok Chand. She began her complaints on 30th December 1774, but they were then directed against Mr. Graham. Hastings made common cause with his friend, and tried, with the help of Barwell, to prevent the Rani from coming to Calcutta, as she wished to do, in order to substantiate her charges. Graham replied to the Rani's petition by a letter of 6th January, which was drawn up in a very lofty style. Among other things he demanded that the Rani should give a penalty-bond for some lakhs of rupees, though surely her position as a member of one of the first families in Bengal was a sufficient guarantee. According to Francis, Graham took a more effectual way of protecting himself, namely by bribing Sir Elijah Impey. He writes, "Clavering's rupture with the Chief Justice took place a little before Graham's departure for England, when that man was 'accused of seizing the young Rajah of Bardwan, and carrying him away a prisoner from his mother's house. The charge was true, (the taking away the child from

his mother was not, I believe, denied by Graham,) and might have been very troublesome to Graham if he had not taken proper measures to secure the friendship of the Chief Justice. From that early moment I conclude that Impey had taken his line against us. The views of that party in England, which had placed such a man in such an employment, were now so evident, and the success of them so probable, that some of the natives, who had heard that Hastings and Impey were school-fellows, have asked me seriously whether they were not of the same caste?"

Apparently Impey had always a hankering after the flesh-pots of Bardwan, for he afterwards procured for his cousin Fraser, who was the sealer of his court, a large contract for repairing the embankments in the Bardwan district. Francis intimates, (Memoirs, II, 122,) that the real contractor was Impey himself, and evidently this was the common notion in Calcutta, for we find that Impey was generally known there by the sobriquet of Justice Pulbandi, or the Venerable Pulbandi. (See Hickey's Gazette, *passim*.) The matter is a digression, but it is such an important illustration of Impey's character, that I must here give a few details about it. Fraser, then, was Impey's cousin, being the son of his mother's brother, and was a member of his household in Calcutta. Francis calls him a low, obscure fellow, who had not long ago been the mate of a ship, a wretch of the lowest order, a creature and distant relation of Impey, and already well-provided for in the Supreme Court. This is strong language, but the description is substantially borne out by Fraser's own account of himself, in an affidavit which he made before Justice Hyde on 16th August 1782.

In it he says: "Sir E. Impey when he was about to leave England and proceed to Bengal, requested the deponent, then a chief mate in the service of the E. I. Company, to relinquish his pursuits in that line, and trust to the interest of the said Sir Elijah to provide for this deponent in India; which this deponent did accordingly, and this deponent further says that the said Sir Elijah has been very solicitous, as this deponent believes, to promote the interest of this deponent; that as the education of this deponent had not been such as qualified him for the higher and more lucrative offices of the Supreme Court (as the said Sir Elijah has often declared to this deponent) the said Sir Elijah procured him this deponent to be appointed Sealer of the said Court soon after his first institution, to which office a yearly salary of Rs. 2000 Arcots and no more is annexed; and that this deponent held no other office whatever in the Supreme Court till the month of December in the year 1776, when he was appointed examiner in the said Court, to which office a yearly salary of Rs. 6000 Arcots and no more is annexed, and that he hath not at any time held any other office in the said Court except the offices above mentioned. And this deponent further says that the profits of the two offices, including fees and salaries after the necessary deductions for clerks and contingencies would not, if this deponent did not lodge and board gratis in the family of the said Sir Elijah, be more than would be necessary to maintain this deponent in decency and

with common necessities." In the same affidavit, Fraser says that he hoped to be made Superintendent of Police, but that this appointment was given to Playdell, that he was then appointed Coroner in the latter end of 1778, but as he did not like the office and was not sufficiently instructed in law to perform the duties, he declined the appointment. Some time afterwards George Bogle came into his bedroom and recommended him to make proposals about the Pals (embankment). The above affidavit, as well as a letter of Impey, of August 1782, were called forth by Francis' letter to the Select Committee of 3rd April 1779. It seems that Francis thought the job really too gross, and therefore wrote home about it. He first refers to a contract given to an unknown man named Wattel, and which according to him was really in favour of Sir John D'Oyley and Dr. Burn. He then goes on :—" On 13th February 1778, the majority thought proper to give a contract for repairing the Pals of the district of Bardwan to a Mr. Fraser, for the sum of Rs. 1,80,000 sicca, whereas in the settlement of the district formed by Sir John Clavering, Col. Monson and myself for the years 1776 and 1777, the Rajah's officers had engaged and were bound to perform the same service for the sum of Rs. 25,000 sicca per annum. Mr. Fraser is an inferior officer in the Supreme Court of Judicature, where I understand, he is well provided for. You are to consider and judge of the views and principles which have guided the Governor General and Council in the allotment of such a design on terms of such immediate profit to a person so circumstanced as you will find Mr. Fraser to be, if you think fit to inquire into his situation and connections. By referring to the Consultations, you will find that I have gone as far in opposing the measure as the delicate and personal nature of the question, and perhaps my own safety, would admit of. Let me only assure you that it concerns the Company's service in a very high degree. Some late resolutions, still more extraordinary and questionable than even those taken in the first instance, have brought these contracts again into view. The sum payable to Mr. Fraser out of the Company's treasure is sicca rupees 4,20,000, which, reckoning the current rupee at two shillings, is equal to £48,736. Besides that, you will observe that in the second contract Mr. Fraser is authorized to execute certain additional works which properly belong to his contract, and to deliver in extra bills for the same upon honour." Fraser's reply to this is, that he is to deliver his bills upon oath and not upon honour! Francis concluded "In the case of Mr. Fraser, the object meant to be provided for, is sufficiently apparent, and very well understood in this place"

Fraser's affidavit is followed by that of his agent, John Bayne, but I think, it will hardly be disputed that the contract was a job. Fraser was an uneducated man, who had been a sailor, and was foisted into the Supreme Court by his relative. He knew as little about embankments as about law, and had, in the nature of things, no connection with either. Why should the contract be in his name when the work, if done at all, was done by Bayne, unless because he was the *farzi* of Sir Elijah? It is no wonder that we find in Hickey's Gazette satirical verses beginning—

"Pulbandi once, in a high fit of crowing,"

"Exclaimed thus to Archibald Sealer, the knowing."

The same journal publishes a satirical letter signed Philanthropus and describing a noble act of generosity on the part of Archibald Sealer, who is called "one of the hardy sons of the

North, who has been for these forty years the sport of Dame Fortune and has combated with adversity in almost every quarter of the globe, but who, at length, by the adventitious appointment of a friend to an office of importance and trust, has been transported to the once flourishing capital of Bengal, from which period the dawn of his successes began. He has lately made a settlement of one lac of rupis on Pulbandi's children." Yet, Sir J. Stephen tells us that Impey was like many English judges!

The inquiry into the Rani of Bardwan's charges was resumed in March, and one of her letters is dated 10th March, *i. e.*, one day before Nanda Kumar brought his charges. Birju Kishor, the Rani's diwan, was taken before the Board on the 14th March, and compelled to admit accounts in which a large number of bribes were set forth. He admitted papers showing a gift of Rs. 5,000 to Kanta Babu, and of Rs. 500 to his "mate," Kista Charan Chatterjea, but denied Ex. D in which Rs. 15,000 were set down as paid to Hastings. Dayaram Baral, however, a servant of the Raj, deposed that Ex. D was in his handwriting, and that Birju Kishor had directed him to write it. Nanda Kumar may not have instigated these charges, but he was the enemy of Graham and he had formerly been in charge of the Bardwan district. His connection with Bardwan is also shown by the fact, that at the forgery trial, Sadaraddin stated that when he was munshi to Mr. Graham at Bardwan, he frequently had occasion to see Nanda Kumar's seal, and that it was from this that he was able to recognize it on the receipt Ex. F. Mr. Gleig takes the view that the Rani was encouraged by Nanda Kumar's success to attack Hastings, for he says, it was not till the success of Nanda Kumar's devices spread abroad that she openly took the field against the Governor-General. On 17th March, the majority, in spite of Hastings' opposition rewarded the Rani by giving her and her son *khilats*.\* That Hastings saw a storm gathering against him from all quarters, appears from a letter of 25th March, in which he says: "The trumpet has been sounded, and the whole host of informers will soon crowd to Calcutta with their complaints and ready depositions. Nanda Kumar holds his *darbar* in complete state, sends for zamindars and their vakils, coaxing and threatening them for complaints, which no doubt he will get in abundance, besides what he forges himself."† The prognostic was right, for on 30th March, a new charge was brought before the Board by one Zin-al-ab-din Khan, accusing

\* The compliment to the Rani consisted of a pair of fine white shawls and an elephant.

† Macaulay was probably thinking of this, when he wrote the paragraph beginning—"The natives soon found this out."



Hastings of appropriating two-thirds of the salary of the faujdar of Hugli. In one sense, this was a more serious charge than the others, for the money was the Company's and not merely that of Mani Begum, or other natives. The charge was apparently true, but true or false, the majority acted on it and dismissed the faujdar. On this occasion, too, Hastings dissolved the Council. The faujdar, in humble imitation of Hastings and Kanta Babu, tried to evade appearing before the Board, and when at last he did so, refused to be sworn. He, however, did not escape so easily as his exemplars. Sir J. Stephen says that Nanda Kumar was not concerned with this matter, at least ostensibly, but Barwell's letters, which he has published, show that Nanda Kumar was believed by Barwell to be very much concerned in the matter indeed. He says that Zin-al-ab-din was Nanda Kumar's instrument, and that when the faujdar was dismissed, Mirza Mehndi, who had been Nanda Kumar's servant on Rs. 20 per month, was, at the recommendation of the latter, appointed to the vacant post on a salary of Rs. 3,000 per month.\* It was clearly necessary that Hastings should do something to stop the torrent of accusations, and as he considered Nanda Kumar the prime mover in them, he naturally dealt first with him. It was only by striking terror that he could avert destruction.† Mahomed Raza, Mani Begum,

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\* Barwell omits to mention that this was but the half of what Khan Jahan got. Hastings also spoke of Mirza Mehndi as a creature of Nanda Kumar (letter of 20th May 1775), and he turned him out and restored Khan Jahan as soon as Monson's death gave him a majority again. (Proceedings of 8th November 1776)

† When the majority taxed Hastings with having taken up the conspiracy charge in order to defend himself against Nanda Kumar's accusations, Hastings admitted the allegation, and was very angry with the majority for objecting to his tactics. On 18th May he writes—"My adversaries have placed me in a situation peculiarly difficult and delicate. They have made me the butt of unceasing persecution for these seven months past, and have called down the whole host of informers from every quarter of Bengal against me. Yet when I have endeavoured to bring to justice men charged with a conspiracy to ruin my fortune and blast my character with forged and hellous accusations, the same charge is retorted upon me by the gentlemen of the majority, although in all their most violent attacks upon me, they have made professions of the deepest concern for the honour of the Governor-General, and the prosecution of Raja Nanda Kumar, and others, for a conspiracy is represented by them as having a tendency, which in this connection, can only mean a design or intention to prevent or deter him from persisting in making good those discoveries, which he has laid before the Board. This is the very wantonness of oppression. It is like putting a man on the rack, and exclaiming with him for struggling with his tormentors."

Sir James Stephen remarks: "the prosecution of Nuncomar for conspiracy was regarded by the Council, and was afterwards represented by Burke and Elliot, as a counterstroke to Nuncomar's attack upon him, and no doubt it was so, but why with Kaml's evidence before him, Hastings was not to

and even the wretched Kamiladdin, were joining in the cry and there was no foreseeing the end. But a resource was at hand. There was the faithful bosom of Sir Elijah Impey, and there were the thunders of the Supreme Court. The employment of this new and strange engine from over the sea, resembled in its effects the artillery invented by the rebel angels, and enabled Hastings to confound and scatter the general, the colonel, and the war-office clerk, as well as the crowd of chattering Bengalis who mustered round their standard.

Granting that the taking the one-and-a-half lakhs from Mani Begam could be defended or excused, it is clear that the Members of Council were not disposed to consider it as justifiable. They were prepared to make Hastings refund, indeed, called upon him to do so, and it is obvious that the fact that the taking of the money could be palliated or even defended would only make Hastings and his friends the more indignant with Nanda Kumar. It was an old story, and had occurred before the Regulating Act was passed or the ex-war office clerk had received his appointment. Surely it was monstrous that it should now be raked up against the Governor! What business had a Member of Council with things which happened in 1772? And if Hastings must be called to account, what would happen to subordinates such as Barwell and Vansittart?\*

Nanda Kumar brought his charges on 11th and 13th March and Sir James Stephen says that the Councillors only inquired into them on these two days. Perhaps this was too precipitate, but Hastings was himself largely to blame for it. He would not attend the Council himself, nor would he allow his banyan to attend. I am not convinced that the majority did not act properly in bringing the matter to a head by calling on Hastings to refund. This was to send him a challenge which he might answer, and at all events, the referring of the matter to their law-officers was in accordance with Barwell's opinion, that the Supreme Court was the proper place in which to try

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take the matter into Court, I cannot understand. He had no other legitimate mode of self-defence, and this was perfectly legitimate." Neither Hastings nor Sir J. S. has explained how the prosecution of Nanda Kumar for conspiring in *April*, to get up *bramads* (accusations against men in power) could clear Hastings' character of the charges brought in *March*. Is it true that Hastings had no other legitimate mode of defence? Could he not have denied that he had taken the bribes? and could he not have prosecuted Nanda Kumar for libel?

\*The extract from Barwell's correspondence with which Sir James Stephen concludes his work, shows the state of feeling in Calcutta. "Even admitting the Governor to have benighted by presents, this mode of putting people upon the rack to accuse him, and paying others with lands, high offices, and honours, for doing so, is a tyranny that must blend falsehood with truth, and make equivocal any testimony thus obtained."

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the question. Sir James Stephen knows that *ex parte* proceedings are generally short, as absence is not unreasonably regarded as a kind of confession. Mr. Sayer thought Hastings' conduct a sufficient proof of guilt. Nor is it correct to say that the only inquiry into the charges was that of 11th and 13th March. When Hastings would not refund or even answer the demand for restitution, the majority made further inquiries. They deputed Mr. Goring to inquire into Mani Begam's accounts in Murshidabad, with special reference, apparently, to the lakh and a half of rupis which she was said to have paid to Hastings, and a great deal of Goring's inquiry referred to this sum. His evidence is to be found in Appendix F. to the Eleventh Report. He there says that Nanda Kumar was under prosecution, and executed while he himself was at Murshidabad on this commission, and he bears testimony to the strong impression made by the execution on the natives there, and to their feeling, that it would thereafter be impossible to bring charges against men in power.

On 27th March, Hastings wrote letters to Graham and Maclean (Gleig, I, 521) which show how terrified he had become. He informed them that he had formed a resolution to leave India and return to England by the first ship of the next season, if the earliest advices from England contained a disapprobation of the treaty of Benares or of the Rohilla war, and marked an evident disinclination towards him. In that case, he says, "I can have nothing to hope, and shall consider myself at liberty to quit this hateful scene before my enemies gain their complete triumph over me. If, on the contrary, my conduct is commended, and I read in the general letters clear symptoms of a proper disposition towards me, I will wait the issue of my appeals." \*

Sir James Stephen uses this letter as an argument to prove that Hastings had nothing to do with the prosecution of Nanda Kumar. He says, "a man was hardly likely to plan a judicial murder in order to avoid the possible loss of an office, which he had authorized his agent to resign upon a contingency unconnected with the persons to be murdered." This is hardly fair, for Hastings' meaning clearly was, that matters were going so much against him, that unless he got supported about the

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\* The appeals here referred to are those made by Hastings to the Court of Directors. When the quarrel between Hastings and the majority had reached a climax, both parties agreed to appeal to the Directors. Hastings talks of this as his last resource, and speaks of making a solemn appeal. (Consultations of 8th December 1774). On this occasion, Barwell drew up a minute which, I think, fully disposes of any claim he might have had to be considered a man of ability. Possibly it was to this that Francis referred when he said that Barwell's style might be gathered from his minute.

other and former matters, he would have nothing to hope. If backed up about the former matters, *i. e.*, the treaty of Benares, &c., he would hold on and await the issue of his appeals against the majority. This is clear enough from his letter of the same date to Lord North. In this, he says, "agents, chosen from the basest of the people—and none but the basest would have undertaken such an office—have been excited to bring accusations against me, of receiving presents in the course of my former government. These accusations, true or false, have no relation to the measures which are the ground and subject of our original differences; but my opponents undoubtedly expect, that if they can succeed to lower my private character in the opinion of the world, the rectitude and propriety of my public conduct will be overlooked, and that their credit will rise in proportion as mine is debased." (Gleig, I, 518) A similar view is taken in the letter of 25th March 1775, to Graham and Maclean. (Gleig, I, 513.) There Hastings speaks of the new mode of attack which his adversaries have taken up, and says that the object clearly is to divert attention from his opponents' recent conduct, and to fix it on events which long ago received complete approval, and of which the memory is now almost obliterated (*i. e.*, the affairs of Mani Begam and Guru Das in 1772). The attack, too, was one against which his agents could not well defend him, for they had left India before it was made. It is then clear that Hastings affected to treat the question of the receipt of presents as a matter of private conduct only, and was apprehensive of the bad effects the disclosures would have on his credit as a public man. It may be remembered that when a genuinely private matter occurred, namely the intrigue of Francis with Mrs. Grand, Hastings and Barwell used it as a means of discrediting Francis, and were mean enough, as the latter remarks, to send "that business" home to the Court. But Sir James Stephen has made a more serious error than the one just noticed, for he has taken Hastings' letter of 27th March to be the authority on which Maclean tendered Hastings' resignation. No doubt he has been led into this error by Gleig, but it is still an extraordinary mistake. If he had read the letter with care, he must have seen that it was not a resignation letter at all. The word resignation is not mentioned. Maclean received verbal as well as written instructions from Hastings.\*

\* The subject of the resignation, and of Hastings' repudiation of it, is discussed in an immense despatch of 207 paragraphs (many, however, relating to other matters,) from the Directors, dated 23rd December 1778. It is there said that the evidence of Vansittart and Stewart, was full, explicit and direct on the subject of the power. It appears from para. 26 of this letter that Graham died shortly after his arrival in England (he and Maclean arrived in the spring of 1776) and that consequently, Maclean was in October 1776, Hastings' sole agent.

In the letters quoted by Gleig (II, 88) he describes his interview with Mr. Becher, and how the latter asked him if he had no formal instrument of resignation to produce. "No," he replied, "I believe neither Mr. Hastings nor any of those who were present thought it a matter of so much formality; if certain things were not obtained, I was ordered to signify Mr. Hastings' wish to be relieved; if they were obtained I was ordered not to make this signification. But the orders were so strict and positive that I entreated, and with difficulty obtained, some latitude as to the time and mode of notifying the intention. I have now notified to you Mr. Hastings' wish to have a successor appointed, and no blame can lie with me now, but that of having ventured so long to delay it. Mr. Becher asked who was present when Hastings gave his instructions. I replied, 'Mr. Graham and Mr. Vansittart heard me receive my instructions; they were communicated to Mr. Stewart next morning.'" This was on 11th October 1776, and on the 16th idem, Vansittart and Stewart were examined by the Directors. Graham could not be examined for he had been very ill, and had gone to Lisbon. (Gleig II, 68.)

Vansittart's account of the matter may be read in his letter to the Court of Directors, dated 13th April 1781. (Authentic copy of correspondence in India vol. VI. p p. 70, et seq. Debrett, 1787.) The letter deserves to be given at length. He says:—

"HONOURABLE SIRS,

Having seen a pamphlet entitled a short Account of the Resignation of Warren Hastings, Esq., in which my name appears as a witness to the authority given to Mr. Maclean, which authority has been disavowed by Mr. Hastings, I think it necessary to state the part I took in this transaction somewhat more at length than is recorded in your proceedings of the 23rd of October 1776. I will not, at this distance of time, undertake to charge my memory with the precise words of my testimony; but I can assert with confidence that it was to the following effect:—That when Mr. Hastings gave his instructions to Mr. Maclean, on his departure from Bengal in the beginning of 1775, he told him he would not continue a nominal Governor without any real power, but was resolved to quit his station, unless by the removal of General Clavering, Mr. Francis, or Colonel Monson, or by the addition of some friend of his own to the Council, the authority was given him as well as the name; and that he authorised him to declare this resolution wherever he thought proper. It is very true, as Mr. Hastings observes in his letter of 15th August, 1777,\* that he did not authorise me to give testimony; but it is equally true that he did not forbid my doing it; and therefore, when his Agent, Mr. Maclean, requested it of me, I would not have been justified in refusing. Mr. Maclean wrote to me to beg I would attend in Leadenhall street for this purpose; I came from Berkshire in consequence. I had at the time a perfect recollection of the words Mr. Hastings had used, and I repeated them literally without attempt-

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\* This is the famous letter saying that no event of his life ever befell him for which he was so little prepared as the news of the notification made by Colonel Maclean.

ing to explain them. It rested with the Court of Directors to determine whether or not they amounted to authority for a resignation. If the original minutes of the testimony I gave to the Chairman, Deputy Chairman, and Mr. Becher can be found, and the instructions to Mr. Maclean, which Mr. Hastings says he has in his possession, are produced, the former will appear to be merely a confirmation of the latter.\* With respect to the resignation, I understood from Mr. Maclean that it was not intended that Mr. Hastings should be obliged to quit the government immediately on the receipt of the advices from the Court of Directors, but only that he should do it in time to return to England by some of the ships of the season; and it has been mentioned to me in letters from Bengal, that although Mr. Hastings disapproved of the resignation, it was really his intention to have abided by it, till General Clavering's attempt to dispossess him by violence, and the subsequent occurrences, induced him to pursue a different conduct."

In connection with this subject, it may be noted that Hastings in his letter of 6th January 1781 to the Court, informing them that he had appointed Major Scott as his private agent, says that he had particularly provided that he would never suffer any person whatever to perform any act in his name that might be construed to imply a resignation of his authority. "I protest," he says, "against the exercise of so dangerous a power, from its having been assumed upon a former occasion, without being warranted by my consent, or by any previous instructions that could bear the most distant tendency to such a measure."

Maclean showed two papers to three of the Directors, but the letter of 27th March can hardly have been one of them, for it contains nothing which could not have been shown to the whole Court. Besides, it appears that the papers which Maclean showed, were papers written in January, just before his leaving for England. Hastings' letter to Sykes (Gleig II. 155,) in which he professes to endeavour to recollect what his instructions to Graham and Maclean were, and gives his own and Barwell's impression of their substance, is of itself enough to demonstrate that the letter of 27th March is not one of the resignation papers.

Sir James Stephen is inaccurate in saying that the letter of 27th March was written to Hastings' agents in England. At the time it was written, Graham and Maclean were on the high seas, having left Calcutta only about two months.† His object in writing was to tell them that he would not wait for the result of their negotiations. They had been told verbally and also by papers of instructions, to tender his resignation if certain conditions were not complied with, but now he told them

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\* Hastings in the letter of 15th August, tells the Directors that he has these letters, but I am not aware that he ever produced them. Surely his own words are sufficient to dispose of the question of his agents' powers. On 29th June 1779 he writes, "I believe and think it obvious, that I gave them an unlimited discretion to act for me as they thought best." To Lord North he said that he was not pleased with Maclean's engagement, but that he held himself bound by it and was resolved to ratify it.

† Maclean went home in the Dutton, and in February 1775 had got no further than Madras, having carried there for instructions from his other principal, the Nawab of Arcot.

in supercession of, or in continuation of, the former instructions that he would quit India by the first ship of the next season, that is, in the cold weather of 1775-6. He evidently contemplated starting before he could hear from them, for he writes that he will contrive to stop at the Cape for intelligence. The date of Maclean and Graham's departure for England is given with sufficient accuracy by Francis in a letter to Lord Clive, of 12th January 1775, in which he says: "Maclean goes home by this mail, along with the Hon. Mr. Stewart." He adds, "They are both commissioned, as I verily believe, to support Mr. Hastings, and do us all the mischief they can. Hastings will assuredly stand his ground till the return of the letters; not from any comfort he enjoys in his office or any real desire to continue in it, but he is afraid of a shot in his rear, and dire necessity makes him face about. He has no possible hope of saving his head, but by suppressing those discoveries, which would be immediately made if he were to keep (leave?) his ground." No doubt it was Hastings' intention to await the return of the letters, and the fact that on 27th March he changed his mind and resolved to quit India at once, shows how much he had been affected by the discoveries of Nanda Kumar. Still more conclusive, perhaps, is the fact, that when Nanda Kumar was sent to jail for forgery, and "in a fair way to be hanged," as Hastings put it, he retracted the resolution of 27th March and resolved to see the issue of his appeal; in other words, to wait for the return of letters. Could anything be more indicative of the connection between Hastings and the forgery prosecution than these two letters, one dated 27th March and the other 18th May 1775? The last letter gives, incidentally, another proof of the connection between Hastings and the prosecution. He tells his friends that after Nanda Kumar's commitment, Ram Krishna, the adopted son of Rani Bhowani, sent an emissary to Kanta, entreating Hastings' forgiveness, and offering to reveal the arts which had been practised on him by Nanda Kumar to compel him to put his seal to the petition. Here, then, was another informer, ready to recant like Kamiladdin, as soon as he saw the danger of attacking the Governor, but he was either too late, or he was faint-hearted, for the General (Clavering) sent for him, and took a second petition from him, and "now," says Hastings, "he is tied down to the party for ever."

Laughlin Maclean was a remarkable man in his way, and merits some description. He was an Indian officer, and seems to have taken part in the campaign of 1764, (Broome's Bengal Army, 450.) Then he went home, and must have acquired some reputation as a pamphleteer, for he is 24th on the list of the 42 persons who have been alleged to be Junius. He returned to India not long after Hastings, being sent, as Francis puts it,

by Sir George Colebrooke, from the cabals of the India house, and the ruin of Change Alley, to control the accounts of the army in India. In plain words, he was made Commissary-General. Then, according to Francis, Hastings wanted an agent in England, and he did not think that Graham and Lawrell should go home without the assistance of some person who understood the political geography of England. • So Maclean was induced to resign his place, and once more meet beggary and his creditors in Leadenhall Street. He came out to India again, and resumed his employment with the Nawab of Arcot. He was eventually drowned in the *Swallow*. Probably this was fortunate for Hastings, for it prevented the world from ever hearing Maclean's account of the resignation affair. It was under Maclean that Elliot acquired his talents for intrigue, and Macintosh seems to have been a pupil in the same school.

I think that there can be no doubt that Hastings' real reason for refusing to resign was Monson's death in September 1776. This gave him again a majority, for he had a casting-vote. Another reason was the honour conferred on Clavering by appointing him to the Order of the Bath. Maclean and Stewart looked upon this as a breach of the compromise under which they had tendered the resignation, and wrote to Hastings that he ought not to resign. Their letters were despatched from Portsmouth, and apparently before the *Rippon* (in those days spelt thus) sailed, so that Hastings would get them at the same time with the Directors' acceptance of his resignation. It would therefore appear that his agents would have approved of his conduct in refusing to give up the government to Clavering, though it is not likely that they would have agreed to his denying their powers.\*

Meanwhile the tender of the resignation had been of great service to Hastings, and was another instance of the marvellous luck which attended him throughout life.† It silenced his enemies, and gave him an easy and honourable retreat. "But for this, Lord North," as Stewart wrote (Gleig, II, 92,) "would

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\* Hastings has been blamed by both friends and foes for choosing such a fool as Major Scott for his agent. Perhaps he took the best man he could get; capable men with characters to lose would be shy of acting for a principal who might at any time throw them over. It appears from an allusion by Gleig that there was eventually a rupture between Hastings and Scott.

† It should, perhaps, rather be set down as an instance of Hastings' unscrupulous adroitness. He was certainly a wary-wise Ulysses and (to use an epithet of Carlyle) the shiftest of men. The following bon mot occurs in Hickey's Gazette. "A courtier being in company the other evening, was desired to give his toast, upon which he gave the Great Mogul (Hastings); but not seeing it go round, he asked where he stuck; upon which a gentleman lately arrived from the mofussil, and who sate next him, drinking off his glass, very coldly replied, "At nothing, by G—d."



have praised your abilities, and moved the house to prosecute you upon the evidence of Nanda Kumar, and Lord Mansfield would have cried up your code of laws, and mustered all his forces, as he actually did, to go down to the India House to vote against you." No doubt after the danger was passed, Hastings could write ironically about Stewart and Maclean's congratulations, and say, "I am congratulated on the happy issue of the negotiation, in the preservation of my honour, and my fame, and on the complete victory which I have obtained." But the danger was a very real one while it lasted.\* As Maclean wrote on 25th June 1776: "My last letter, dated 25th March, and the few lines I got forward in April, would inform you of the very hostile intentions of administration towards you, and of the critical state of your affairs here. But when I wrote those letters, I had no idea of the very great lengths it was determined to proceed for your removal." Then he goes on to say that the most injurious calumnies were industriously propagated against Hastings, and that in May 1776, it was determined to bring forward again the motion that had been before negatived by the Court of Directors for addressing the Crown to remove Messrs. Hastings and Barwell from their respective stations in Bengal.

Lord North, as an old placeman, foresaw that Monson's death might affect Hastings' willingness to resign, and spoke to Maclean on the subject. Maclean replied: "My Lord, Mr. Hastings is a man of the strictest honour, and one of the warmest friends of the King's government; if, your Lordship will honour me with the confidential communication of your wishes, I will pledge myself to you that, barring unforeseen accidents, your desire shall be conveyed to Mr. Hastings in three months, and that he will cheerfully comply with it." I suppose Maclean was intending to send a letter overland. Perhaps Lord North, when he heard these assurances of the old intriguer, may have wished, like Pascal's friend, that he had some one who would vouch for Maclean's being of the strictest honour! †

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\* The dangers averted by the resignation were, 1st, that there should be a full inquiry into Hastings' conduct. 2nd, that if he had been removed as was purposed, he could not have been restored without the votes of three-fourths of the Directors, whereas, if he had resigned, a bare majority would have been sufficient.

† Monson was ill for about two months and as his death seemed probable, Hastings speculated on it, as he had done in the case of Nanda Kumar. (Gleig II, 112.) His words are: "Having had some time afforded me, by the strong probability which there was of Colonel Monson's death for some time before it came to pass, to deliberate on the consequences of it, I have already drawn the line of my conduct, with the concurrent opinion and advice of Mr. Barwell and Sir E. Impey, and have written to Lord North to inform him of it."

It will now be convenient to consider whether Hastings ever made any admission of having employed Impey to hang Nanda Kumar.

In 1779 or 1780, Hastings wrote to his friend, Lawrence Sullivan, describing Sir E. Impey as a man to whose support he was at one time indebted for the safety of his fortune, honour and reputation.\* The question is, to what do these words refer.

Lord Macaulay held that they could refer only to the case of Nanda Kumar, and that they must mean that Impey hanged Nanda Kumar in order to support Hastings.

Earl Stanhope, Sir John Kaye and Sir J. Stephen hold that they refer to the dispute between Clavering and Hastings about the resignation.

In my humble opinion Macaulay is right, and this for the following reasons: (1.) There is some resemblance between the words of Hastings' letter and those used by him on 29th April 1775, to describe the plots of Nanda Kumar and others. He wrote of these as most base and infamous artifices to ruin his character and fortune. Still more similar are the words quoted above, p. 316 note when he speaks of a conspiracy "to ruin my fortune and blast my character with forged and libellous accusations."†

(2.) Impey took a much more prominent part in the support of Hastings in 1775 than he did in 1777. In 1775 he took up the complaint of Kamiladdin on a private message from Hastings, and he took the principal part in the trial for forgery. It is misleading to say that he was then only one of four judges. As Chief Justice he had a casting voice‡ and if he had chosen to agree with Chambers, Nanda Kumar would not have been tried under the statute of George II., and he would

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\* Gleig does not give the date of this letter. It may have been written in 1779, for on January 9th, 1780, Impey was "Dear Sir"—ing his old friend.

† His character would be blasted by the accusations, for they affected his integrity. In 1783 he used a similar phrase to Mr. Droze when referring to a charge against his integrity, and wrote, "My name and fortune would be blasted and ruined." (Gleig III, 18.)

‡ On one important occasion, Impey made use of his casting voice. This was when the Company's advocate applied for a rule to prevent revenue debtors from eluding the authority of Government, by bringing collusive suits in the Supreme Court. This rule could not be granted, says Hastings, without a virtual acknowledgment of the right of the Company to imprison their diwani debtors in the town of Calcutta. This question was raised in Kamiladdin's case. At that time, Hastings had reason for supporting Kamil, and therefore did not side with the majority. In November 1776, he was of a different opinion. Impey and Chambers were in favour of the rule, and it was therefore granted by virtue of his casting vote, in spite of the protests of Lemaistre and Hyde, who drew up twelve articles of objections to it. (Gleig II, 117.)

have been respited after conviction. I know that this latter point has been doubted, but we have it on the testimony of Captain Price who was on the grand jury, and who seems to have been present throughout the trial. He says, "Sir Robert Chambers, one of the judges, did move his brethren to postpone the execution until His Majesty's pleasure should be known." He goes on to say that Sir Robert withdrew his motion on account of Radha Charan Mitra's case and of its having been shewn to him that Nanda Kumar's name headed the petition in that case. The latter part of this statement is incorrect, but it is likely enough that the case was referred to. Price adds that he is sorry that Chambers withdrew his motion, although he does not think that it would have made any change in the opinion or conduct of the majority. It was Impey who presided as Chief Justice at the trial; it was he who charged the jury, and according to Brix (one of Nanda Kumar's counsel) he spoke as if he was supreme, for he said that if Kista Jiban had not prevaricated after the evidence was closed, *he* would have directed the jury to find Nanda Kumar not guilty. It was Impey who was publicly thanked by the grand jury and the merchants for his conduct in the trial, and whom they asked to sit for his portrait, and he in turn accepted the compliment as specially addressed to himself. He said: "I entertain the highest sense of the great honour done me by the marks of esteem which you are pleased particularly to address to me. It is with the greatest alacrity that I accept of the honour proposed me" (having his portrait taken).\*

(3.) It seems to me that Hastings' mind was running on the occurrences of 1775 when he was writing to Sullivan, for he went on to speak of Chambers as one "who has made no scruple to avow himself my enemy. God knows why." Now, how had Chambers shown himself Hastings' enemy except in the affair of Nanda Kumar? In the resignation question, he concurred with Impey, Lemaistre and Hyde. If, too, the case was so clear that even an enemy concurred in holding that he had not vacated the government, what reason had Hastings for being specially grateful to Impey?

(4.) The judges did not decide that Hastings was right in disavowing his agent, and that in fact Maclean had exceeded his instructions. If they had done this, Hastings might have said that they saved his honour and reputation, but the fact is that

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\* Impey's letter to Governor Johnstone, which Sir J. S. has published, is the best comment on the remark that he was only one of four judges. He therein clearly intimates that he could have saved Nanda Kumar, and says nothing about being prevented or overruled by the other judges.

they never touched this point. It was not referred to them, and they had no materials for judging of it, as Maclean was not in India then, for there is a letter from him (Gleig, II., 98,) dated London, 12th May 1777. The judges, therefore, could not examine him, nor could they examine Vansittart or Stewart, or see what they had said. In August 1777, Hastings said in his letter to the Directors that he had copies of two papers of instructions to Maclean, but he did not produce them then, nor apparently at any subsequent time, and at the time of the reference to the judges, in June, his story was that he could not find the papers. (See his letters of 25th June 1777 Gleig, II., 155, where he says that he could not distinctly remember what instructions he had given to Graham and Maclean, and that if he had kept a copy, he had mislaid it.) The whole of the proceedings in India are published in appendix No. 14 to the ninth report of the House of Commons, and we there have a list of the papers submitted to the judges. Hastings' alleged instructions are not among them, and in fact, all that the judges got were the papers which had come out in the *Rippon*. The judges gave their decision late on the night of the 28th June, and what they said was :

"Upon mature consideration of the papers submitted to us, we are unanimously, clearly, and decidedly, of opinion, that the place and office of Governor General of this presidency has not yet been vacated by Mr. Hastings ; and that the actual assumption of the Government by the member of the Council next in succession to Mr. Hastings, in consequence of any deduction which can be made from the papers communicated to us, would be absolutely illegal for the following reasons :"

"(First,) because the office of Governor-General was conferred on Mr. Hastings by act of parliament, and according to the tenor of that act can only be vacated by death, removal, or resignation. That Mr. Hastings is not dead is a notorious fact ; no intention is manifested, or act done by the Directors in the least tending to his removal ; and we are firmly of opinion that he hath not actually resigned."

"(Second.) Col. Maclean's letter, the only instrument by which Mr. Hastings can by any one be conceived to have relinquished his office, is in fact no resignation, but a notification of the Governor-General's desire to resign. His words are, speaking of Mr. Hastings, he has authorised, empowered, and directed me to signify to you his *desire to resign* his office of Governor-General of Bengal, and to request your nomination of a successor to the vacancy, which will probably be occasioned in the supreme council. He neither asserts himself to be authorised, nor does he take upon himself, in fact, to make any actual resignation ; he only intimates an intention of the Governor which is to take place in future. He does not request a nomination of a successor to a vacancy which he had by his letter effected, but of that which would in future be occasioned by Mr. Hastings carrying his intent into execution and actually resigning.

"(Ninth.) Another circumstance which strikes us most forcibly is that the Court of Directors, aided as they are by the best legal advice must have known that if Mr. Hastings had in October last vacated the office of Governor-General he could have had no legal voice in the council here." Finally, they say we have given the papers and subject a

consideration which has taken up several hours, \* wishing to deliver such an opinion as from the reasoning of it, not from its authority, might claim weight sufficient to prevent the fatal consequences of a divided government, but we do assure you that none of the time hath been taken up by settling a difference of opinion. There is not one point in which from the first to the last we have not entirely concurred. We transmit it in strong hopes that it may have the effect, the consideration of which could only have led us to give an opinion at all ; and most ardently pray to God that it may avert the mischiefs which seem to impend over the East India Company and this country."

I submit that this account of the matter does away with the idea that Hastings was specially indebted on this occasion to Sir Elijah. If the latter had gone against him, the decision would still have been in Hastings' favour.

The Judges' opinion on the resignation question is an able piece of lawyers' work, but I do not think that it can be regarded as sound. It has too much of the refining and quibbling about words, which seems to have characterised Impey's habits of thought. Though the Judges were unanimous, yet their view cannot carry as much weight as that of the Court of Directors, for their opinion was formed hastily, and without taking evidence. They only sat one night, and the pressure on them to save the peace of the settlement at any cost was not favourable to calm deliberation. They also, in a manner, prejudged the question, for they assembled at the instance of Hastings and Barwell before the point had been referred to them by the other side. As Macaulay says, Hastings risked nothing by proposing the reference. The Directors, on the other hand, had more than one consultation, and though Maclean's letter was presented on 10th October, they did not accept the resignation till the 23rd idem. The judges surely made too much of the words "desire to resign." How else can a servant intimate his resignation? He cannot resign when he likes, and etiquette, at least, requires that he should express himself as desiring to resign, and not as actually resigning. When a civil servant resigns in India, I apprehend that he writes that he wishes to resign, and asks that his resignation may be accepted. Especially would this be so, when, as in Hastings' case, there was talk of removing the officer, and the resignation was tendered as a means of avoiding dismissal. Besides, Maclean's letter only opened the negotiations. It was not itself the instrument of resignation. On getting it, the Directors inquired into Maclean's powers, took evidence, and accepted the resignation. Maclean must then have adhered to the statement made in his letter of the 10th,

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\* The judges assembled at the Chief Justice's house, at 6 p.m. 20th June, and according to M. Grand, they did not separate till four next morning.

and have carried the negotiation to a close. He was present at the subsequent proceedings; it was he who produced his instructions before the three Directors, and it was he who got Vansittart to come up from Berkshire and give evidence. He never showed any wish to resile from his intimation of the 10th, or to claim a *locus pœnitentiæ*. In spite of the authority of Mr. Thornton, who has given a very full account of the resignation proceedings, it seems to me that the authors of the ninth report are correct when they say: "It was extraordinary that the nullity of the resignation should not have been discovered in England, where the act authorising the resignation then was; where the agent was personally present; where the witnesses were examined, and where there was, and could be, no want of legal advice, either on the part of the Company or of the Crown. The judges took no light matter upon them in superseding and thereby condemning the legality of his Majesty's appointment, for such it became by the royal approbation." Though Clavering and Francis loyally acquiesced in the decision of the judges, they drew up a minute showing the reasons for the view they themselves took. There they say: "If the words 'a desire to resign' formally signified to the persons empowered by law to accept such resignation, and to fill up the consequent vacancies, do not signify a real resignation, they may be converted into any other sense; they may be understood to imply an unlimited power of continuing in possession." They add; "It is sufficient for us, however, that the Court of Directors understood the words as a real resignation, and unanimously accepted it accordingly." It seems to me that these words contain the conclusion of the whole matter. Granting that Maclean had exceeded his powers, still, when Hastings' masters had found that he had resigned, he should have submitted. He could not be justified in referring the matter to a tribunal which had no legal authority in the matter.

• (5) The judges did not fully support Hastings on the occasion and he was only half-pleased with them. He and Barwell voted Clavering out of the Board and out of the Commander-in-Chiefship, on the ground that he had given up his seat and that he had failed in proving his title to the Governor-General's office. The judges, however, declared that Hastings and Barwell had no right to declare the seat of any member of the Council vacant. Hastings' letter to Sullivan, (the friend to whom that of 1779-80 was addressed) shows how much he was dissatisfied with "the support" of the judges on this occasion. He says, "when they had so decidedly pronounced the first act of General Clavering illegal, we had no conception that the judges would again interpose their authority to replace him in

his former office. Besides, the indecent terms in which the General and Mr. Francis had combated their first opinion, afforded so strong, and in some respects, authoritative grounds for the belief that the judges would refuse to answer any more references. There was no occasion for it."

Mr. Impey not unfairly appeals to his father's conduct on this occasion as proof of his perfect impartiality and independence of the friendship of Hastings. Would such lame and half-hearted support as this be likely to be characterized by Hastings in the strong language quoted by Macaulay?\*

The resignation by Maclean as agent for Hastings, and the proceedings which followed thereon, are about the most intricate and interesting part of the whole Hastings' drama, but they are an episode on the gigantic scale of those in the Mahabharat, and would require a volume for their adequate treatment. They are quite a study in the matter of conflicting evidence. It has generally been said that the Directors acted hastily in accepting the resignation, but their proceedings were marked by considerable deliberation. They, too, had lawyers whom they consulted, and the matter was properly before them, whereas the Calcutta Judges were interlopers.

Maclean's letter to the Court was written on the 10th and received on the 11th October, when it was resolved that the matter should be taken into consideration on the 18th. On that day Maclean was called in, and told that the court desired to be informed of the authority under which he acted in a point of such very great importance. He produced some papers to the three Directors appointed to examine them, and said he had more. The affair was again adjourned to the 23rd. Among the papers was one in the Governor-General's own handwriting stating that he would not continue in the Government of Bengal unless the conditions therein specified were complied with. Probably this was the original of the paper referred to by Hastings in his letter of 15th August 1777, as being in his possession, and which, according to him, comprised four short propositions which he required as the condition of his being confirmed in the Government. It has been well remarked by the Directors and by Mr. Thornton, that this reference to confirmation is most extraordinary, for Hastings was then as confirmed in the Government as he possibly could be. The regulating Act mentioned him by name as the Governor-General, and when Hastings was disputing with Clavering, he sent an extract from this Act to the judges to prove that he had been formally made Governor-General by Act of Parliament,

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\* Mr. Merivale says, "It must fairly be admitted that the judges did their best to repress violence on both sides, and maintained the authority of law, as well as saved the peace of the settlement."

and so could not lightly be turned out. On the 23rd October the Directors accepted the resignation, and nominated Mr Wheler to the seat in the Council which would become vacant. This referred to the fact that under the Regulating Act (Section 10) if the Governor-General resigned, his place was to be supplied by the senior councillor. Lord Macaulay is altogether wrong in saying that Wheler was fixed upon by the Directors to succeed Hastings, and that they sent out orders that General Clavering should exercise the functions of Governor-General till Mr. Wheler should arrive. He is also incorrect when he says further on, that Wheler came out expecting to be Governor-General, and was forced to content himself with a seat at the Council-board. Wheler could never have imagined that he was to be Governor-General. Neither the Directors nor the Ministry could fill up that appointment, for the Act had already prescribed what should be done for the remainder of the term of five years for which the new constitution was in force. If, therefore, Hastings had resigned, Clavering did not require any commission to make him Governor-General. He succeeded at once by the fact of his being the senior councillor. Wheler was appointed to fill the vacancy which would be caused by Clavering's promotion, but when he was at Portsmouth he heard of the death of Monson, and posted back to London, and got a fresh appointment to succeed Monson. This probably was, as Thornton points out because Monson was nearer the Presidential Chair. Wheler's first appointment would have brought him in behind Francis and Barwell, but the new one made him the senior member. Maclean thought that this proceeding of Wheler's invalidated the proceedings, for Hastings was now left without a successor and so could not resign, but he was not aware that Wheler resigned his first appointment just before quitting the shores of England, his letter being dispatched from the Start. The above narrative shows, I think, that the Select Committee of the House of Commons were correct in remarking that the Directors showed themselves extremely punctilious with regard to Mr. Maclean's powers. They add, that the Directors probably dreaded the charge of becoming accomplices to an evasion by which Mr. Hastings, resigning the service, could escape the consequences attached by law to a dismission. I may here note that some able remarks on the resignation question will be found in my father's "*History of India*." Thornton is fuller, but the question can only be thoroughly studied in the appendices to the ninth report.

Wheler's nomination was approved by the King, and the Court of Directors sent out the proceedings, together with a postscript dated the 30th October 1776, to Calcutta. The



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dispatches were carried out in two of H. M.'s ships, the *Rippon* and the *Cormorant*. The *Cormorant* was the first to arrive, and her dispatches were received and read in Council on the 19th June. Clavering and Francis expected that Hastings would at once surrender his post, but he said nothing, and the Council broke up. Clavering waited till ten next morning, but not hearing anything from Hastings, he then wrote him a letter, addressed, "Warren Hastings, Esq.," calling on him to give up the keys of the Fort, etc. Though the dispatches were not received till the 19th, their contents were known beforehand. On 14th June, Hastings got his letters from Maclean. They were brought by Macintosh, whom Maclean had employed for the purpose, and who is always represented by Hastings' friends as having been only the paid agent of Francis. Macintosh came out in the *Rippon*, but left her at Madagascar. How he came on from there I do not know, or even if he did come to India then. According to Francis, Sir Edward Vernon facilitated the manœuvre by sending on the *Cormorant* from the Cape before Macintosh.\* Clavering and Francis did not get their letters

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\* According to *The Travels in Europe*, &c., Macintosh did not leave Europe till 1778, and did not arrive in India till 1779, but I still think that the Macintosh referred to by Hastings must be W. M., for Price calls the latter an intimate friend and fellow-labourer of Colonel Maclean. Macintosh's letter, too, to Hastings, of 17th November 1778 (i, 165) reads as if he had been previously acquainted with him.

Sir J. Stephen's rashly calls (2-97 note), Francis an habitual liar, because he denied that he had employed Macintosh to say or do anything for him in England. Sir J. S. ground is Mr. Parkes' discovery that Francis paid two sums of money to, or for, Macintosh. One item is a payment to Almon the bookseller, and, I suppose, Sir J. S. seized upon this as proof that Francis paid for the printing of *The Travels in Europe*, &c. Unfortunately for this view, Almon was not the publisher of *The Travels*. They were published by Murray of Fleet Street, and in 1782, and not in 1781 as Sir J. S. says. Francis arrived in England in October 1781, and he wrote the letter to Wheler in which he denies the agency on 18th January 1782. The payment to Almon for Macintosh was in December 1782. The first payment, dated 18th January 1782, is of £1,078, far too large a sum, I think, he paid for *The Travels*. There is, in fact, very little about Francis in the *Travels*, and I presume that Sir J. S. has never seen the book, and has been misled by Mr. Merivale's statement, that they run minutely into defence of Francis. I cannot believe that Francis would have given as much as £5 for such help as Macintosh could give to his cause. It seems to me more likely that the £1,078 were paid to Macintosh for services connected with Mrs. Grand. It seems (*Quarterly Review* for December 1848, p. 70) that he took her home, and he may have arranged for her support in France. Dr. Busted's conjecture that Mrs. Grand went home with Tolfrey is probably not correct, for the lady mentioned in *Hukey's Gazette* is a Mrs. G—d—, so that the name was a dissyllable. It is pretty clear that Mrs. Grand went home early in 1780, and it is possible that the entry in Francis' journal, of 17th March 1780 "despatch the *Ceres*," refers to her. The *Ceres* joined at the Cape the fleet in which was Macintosh's ship, the *Ganges*.

till the 19th June, if even then. They heard nothing till some hours after Hastings had received his letters, and then, apparently, they heard only indirectly, and from a friend in India. "At midnight of 14th June," says Francis, "received a letter from Colonel Leslie that an express was just arrived with notice of Hastings' resignation, and the red ribbon for Clavering." These facts should be remembered when Clavering is taxed with precipitation. No doubt he was wrong in demanding the keys from Hastings, and in treating him, by his style of address, as one already in a private station, but he had cause to be angry. Hastings was not at all taken by surprise by the packet of the 19th June. He knew about the matter five days before, and he actually alluded to the news in Council on the 17th June, and spoke of the approaching change of government, and gave the prospect as a reason for proposing to cancel an appointment made on the 13th idem: (Gleig II, 165, and Francis II, 86.) Clavering overran his game, and so lost it. Hastings always asserted that he held on because of Clavering's "brutal outrage," and that otherwise he would have held himself bound by Maclean's engagement, and was prepared to ratify it. He by no means took a cheerful view of his position after the judges had decided in his favour, and does not express any gratitude for support, except for Mr. Barwell's (about whom he is very warm, Gleig II, 167. \*) He writes that he shudders at the consequences of departing from the letter of Colonel Maclean's engagements, and dreads, equally with death, the thought of entering into a new scene of indefinite contention.

Sixth, and lastly, I would ask how Hastings' victory in this resignation affair involved the safety of his fortune, honour and reputation? How was his fortune saved, or his honour, or his reputation, by the decision of the judges? It still left him shuddering at the consequences of disavowing Maclean.

On the other hand, there can be no doubt that the hanging of Nanda Kumar did tend to the safety of his fortune and his honour. Sir J. Stephen rejects Macaulay's view as being revolting and improbable. He complicates the matter by introducing a letter of Impey to whom Macaulay made no allusion. Impey might not like to refer to the matter, but there is not the same improbability in Hastings' doing so. Sir J. Stephen's view requires two assumptions for its support. (1.) That Hastings employing

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\* "From the 20th to the 23rd Mr. Barwell and myself were inseparable. We fortunately lived under the same roof. Here I must stop for a moment to indulge myself in acknowledging the gratitude which I feel for the unremitted support which I have received from his friendship which never exerted itself with a greater warmth of attachment than on this trying occasion."

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Impey to hang Nanda Kumar was a revolting, abominable, and horrible crime. (2.) That Hastings would recognize it to be so.

Now, though I think Hastings' conduct criminal, I would hardly characterize it as revolting or abominable. Moreover, according to my view, Hastings had taken the bribes: if I thought with Sir J. Stephen that he was innocent, and that Nanda Kumar's charges were false, I would judge him still more leniently. At any rate, we have two Englishmen of undoubted honour—Lord Macaulay and Sir John Kaye—declaring that even if Hastings was the real prosecutor, his conduct was not very bad and was far from being shameful. Macaulay says that it cannot with justice be reckoned among his crimes, and Kaye says: "We should not be inclined to judge him (Hastings) very harshly if he were" (the real mover in the business; and then adds, "but for Impey there could have been no valid excuse, if he really became, as alleged, the judicial tool of the Governor-General."

Native opinion thought Hastings the real prosecutor, but native opinion, as represented in the *Sair al Matakharin*, did not blame him.\*

Why should we suppose that Hastings, who sacrificed the Rohillas and the Begams, whose conduct to Chait Singh was so bad that even Pitt was at last compelled to throw him over, should feel squeamish about alluding to the hanging of Nanda Kumar? He looked forward to it with pleasure, writing on 18th May, that the "old gentleman was in jail and in a fair way to be hanged." It seems certain, also, that after the sentence, he employed his private secretary, Belli, to thwart Farrer in his endeavours to get up a petition for mercy.

Hastings wrote his letter to Sullivan long after the event, but under the influence of strong feeling. His words are: "I suffer beyond measure by the present contest, and my spirits are at times so depressed as to affect my health. I feel an injury done me by a man for whom I have borne a sincere and steady friendship during more than thirty years, and to whose support I was at one time indebted for the safety of my fortune, honour, and reputation, with ten-fold sensibility. And under every consciousness of the necessity which has influenced my own conduct, and the temper with which I have regulated it, I am ready to pass the most painful reproaches on myself on the least symptom of returning kindness from him." If Impey did hang Nanda Kumar in order to save Hastings, we cannot

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\* M. Raymond dedicated his translation of the *Sair to Hastings* in 1787, and he makes no comment on his author's view that Hastings was the prosecutor.

doubt that the latter would feel grateful to him, and an expression of his feelings might easily slip out in an unguarded moment. In considering the correspondence of the two men at this time, it is instructive, and I think, characteristic of their natures, to find that what Hastings felt was sorrow at being injured by a friend who had once been his benefactor, while Impey's feeling was indignation at Hastings' ingratitude and at his breaking his promises. The allusion to the promises is very curious, and in my opinion, suspicious, especially as Impey said it was no recent affair. "Hastings," he wrote to Thurlow, (Impey's Memoirs, p. 184.) "had repeatedly given him positive promises of private confidence, and had assured him that no acts should proceed from him hostile to the Court." At p. 182 he says that these allusions to former conversations had no reference to late conversations, but referred to former declarations from him to me that during his government no act hostile to the Court should be done, and that rather than commit himself to a contest with the Court, he would leave his government. In a similar strain he wrote to Dr. Fleming, that Hastings' present conduct was diametrically opposite to repeated and warm promises. So also he wrote to Dunning complaining that the power exerted against him would not have been in Hastings' hands, if he had not helped to keep it there. The whole tone of his complaints seems to me low and sordid, and just what we might have expected from Impey. "I helped Hastings once, and therefore," he seems to say, "he is bound to help me now whether I am right or wrong." It seems to me that if Impey could venture to allude to promises of Hastings to support the Court through thick and thin, and whether it was right or wrong, he might also venture to allude to what he had done in fulfilment of his part of the bargain. The promises to which Impey refers must, I think, have been made after the Nanda Kumar charges, for in 1774, Hastings did not scruple to oppose the Court. The first conflict between the executive and the Court took place in November 1774. This was on the occasion of the Court's granting a *habeas corpus*, directing one Khwaja Cavorke, residing at Sutaruri, in the district of Bakarganj, to produce fifteen men whom he was said to have confined. Jarret, the Company's attorney, sent on 17th November a copy of the affidavit on which the writ had been obtained, and on the 21st idem Hastings drew up a minute representing the danger to the revenue if such processes were issued, and the result of this was that the Dacca Council was written to and told to instruct Cavorke to disobey the writ. The Board seems to have written twice on the subject, and their words on the second occasion are : "As this is of great importance as well as delicacy, we once more recommend the greatest punctuality and prudence in

carrying these orders into execution, and that you take care that the Armenian behave with the greatest decorum and circumspection in refusing his obedience to the writ, and that he put it merely on the ground of his not being amenable to the jurisdiction of the Court." In January, there was another case of the issue of a *habeas corpus* directed against one Bacha Ram, an inhabitant of Birbhum, and in this, too, I think, Hastings did not side with the Court. A change seems to have come over Hastings in May 1775, for we find him then broadly stating that he would object to every interference of the Board with the Court. The point was, whether the judges had ordered that Nanda Kumar should be confined in the common jail, and Monson proposed that the Sheriff and his deputy should be called in and asked to show the warrant. As a matter of fact the warrant did not specify the common jail, as very probably Francis knew, through his brother-in-law, but of course it was necessary that the warrant should be formally before the Board.

Hastings said, "I object to the motion, as I shall to every interference of this Board with the authority of the Supreme Court." Here, I think, we see Hastings fulfilling his compact, and doing so in a very zealous way, for the motion did not interfere with the Supreme Court. The motion only proposed to examine the Sheriff as to what orders had been issued, and moreover, the warrant had not been issued by the Supreme Court but by Lemaistre and Hyde as justices of the peace. However, it threw Lemaistre and Hyde into a state of the highest indignation, and made them give vent to their feelings in a travestie of an ode of Horace. Just and tenacious, they say, of the great purpose for which it was his Majesty's pleasure to send us to this country, neither the tumultuous clamours of the multitude, nor the angry tyranny of authority shall ever move us, etc., etc.

Hastings gave another proof of his staunch adherence to the Supreme Court in the matter of Kamiladdin in July 1775, when he refused to oppose the issuing of the writ of *habeas corpus*. His conduct on this occasion is the more noticeable, as he must have thought the Court wrong, for he afterwards got Impey to concede the point involved in it. This defection of Impey was bitterly resented by Lemaistre and Hyde, who no doubt could see no reason why the precedent of Kamiladdin should be departed from. Perhaps Impey reconciled his decisions in the two cases by saying, that Kamiladdin was released because the return to the writ was imperfect, as it did not claim a right to imprison without bail or mainprize. The antinomy could not, however, be got over in this way, for when Kamiladdin was released on the first occasion, because the return to the writ was defective, the Calcutta Council

arrested him again. This was viewed by the Supreme Court with great indignation, and the Council was threatened with punishment for contempt of court. They even took upon themselves to pronounce that the Council must proceed first against Kamal's sub-lessee, Basant Rai.\* Hastings again showed his zeal for the court by making an affidavit against Radha Charan Rai's claim to be an ambassador, and so exempt from the jurisdiction. Hastings' making an affidavit on this occasion was the more remarkable that he himself was the prosecutor. It is significant, too, that after he had gained his object by swearing, and getting his friends and dependants, Vansittart and Lane to swear that the Nawab was not a sovereign, and had no power, he turned round three years later and asserted that the Nawab had an unquestionable right to the Nizamat, that is, to the military power, and the control of criminal justice. (Vide Mill, IV, 27, note.) Hastings' motive for the change of view was that he now wanted to punish Mahomed Raza Khan, who had been so ill-advised as to side with the majority, and even to become Francis' most powerful agent. See Hastings' very plain-spoken letter to Sykes who had been a patron of Mahomed Raza, and who might be supposed to be dissatisfied with Hastings' treatment of him. (Gleig, II, 189.) In this letter Hastings takes credit for having conducted the inquiry against Mahomed Raza in a perfunctory manner, his words being: "My behaviour to him while he was under the displeasure of the Company, was as kind as it was possible to be. I received the informations which were produced against him, but I neither sought nor encouraged them beyond the first publication of the Company's orders." I submit that this letter gives support to Nanda Kumar's charge, that Hastings did not properly inquire into the case of Mahomed Raza Khan. As illustrating Hastings' duplicity, it is worth while to contrast his letter to Sykes with that to Sullivan in 1774, (Gleig, I, 391) in which he says, "I have taken every measure, by proclamation, protection, and personal access, to encourage evidences against him, (Mahomed Raza Khan.)" The only argument against the view that Hastings' letter refers to the Nanda Kumar trial is, that it is unlikely that he would make such an allusion. Such an argument appears to me worthless. Has not Sir J. Stephen told us that the murderer, Donellan, hastily, and under the pressure of irritation, let fall that he had poisoned his brother-in-law?

For these reasons I hold that Macaulay's intuition† was

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\* Basant Rai was also the name of the fictitious lessee of Barwell's farm in the Dacca district. Was this the same man?

† Merivale justly praises Lord Macaulay for his "sagacity in deducing right conclusions from imperfect knowledge." He was like Newton, who could see the propositions of Euclid while they were yet wrapped up in the definitions and axioms.

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right, that Hastings was referring to the Nanda Kumar case, and that he accidentally and virtually confessed that Impey had hanged Nanda Kumar in order to support him.\*

#### TRIALS FOR CONSPIRACY.

I now proceed to describe the trials for conspiracy. These like the forgery-trial, have a long history which has been very imperfectly told by Sir James Stephen.

In order that the cases may be fully understood, it is necessary to summarise the evidence given by General Clavering in the prosecution by Barwell (1289.)† Clavering began by saying that shortly after his arrival in India, Mr. Elliot offered to become his interpreter. In answer to this Clavering said he intended to employ an interpreter who was then with the army, and of whom he had heard a very good report. (It will be remembered that Clavering was Commander-in-Chief and was probably entitled, as such, to the services of an interpreter. I presume that the interpreter he referred to was Mr. Roberts.) Elliot submitted to this reply, but offered his services till the regular interpreter arrived. They were accepted by Clavering, and he used to make over all his Persian correspondence to Elliot.

Then there arose divisions in the Council, and Elliot became Hastings' Private Secretary. This made it unpleasant for him to interpret for Clavering, and he represented this to the General about a month after his original offer of his services. "Mr. Elliot," says the General, "opened himself to me, and told me in a very honourable manner, that I must be sensible, from his close connection with the Governor-General, how unpleasant a thing it would be to him to accept of such a trust from me." Still Elliot was willing to translate such papers as were sent to him, and Clavering continued to employ him. After this, sometime in the middle of November, (the report says January, but it is clear from the next page that November is meant,) as Clavering was going to the Council-house, he was waylaid by a number of *malangis*, or salt makers, who surrounded his paliki and nearly upset it. The General stopped, and they gave him an English petition which he read on his way to the Council. He saw in it evidence of what he thought a very gross abuse of power, and as other petitions had been presented to him in the streets, and been laid by him before the Council without any notice having been taken of them, he resolved to inquire into this one himself, as well as he could. He therefore sent his servant to the salt-contractor's house to tell him to come to the General's on his return from Council. This salt-contractor was

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\* I was formerly inclined to think that Hastings' remark referred to the resignation, but further reading and reflection have changed my opinion. † Numbers thus simply bracketed, refer to the columns in Howell.

not, I believe, Kamaladdin,\* for the malangis belonged to the 24-Parganas, and Kamaladdin was farmer of Hijili, and probably had nothing to do with the 24-Parganas.) When the contractor came, Clavering found that he needed an interpreter; the man teased him, he says, with evasions and contradictions, and so he sent for Mr. Fowke, and referred the complaint to him. "I did so," he says "on account of Mr. Fowke's being a person of whose honour and integrity I had the highest opinion; more from general report which his reputation bore in England, than from any personal acquaintance with him here." Here I may remark that other persons besides the General gave Fowke a high character. Colonel Thornton did so, and even George Vansittart. Hastings himself admitted that he never heard of his doing any dishonest, or dishonourable act. Yet this is the man whose evidence Sir James Stephen rejects in favour of that of Kamaladdin!

The salt-contractor did not like the cases being referred to Fowke, and complained to Hastings. Next day when Clavering presented the petition to the Council, the Governor-General reproached him warmly for taking up a business in which he was so immediately concerned. Clavering did not understand his allusion at first, and Hastings said "you must know that Captain Weller was connected with me." Clavering replied that he had been entirely uninformed of it, till Mr. Fowke had told him of it after the examination of the malangis. "The Governor then said many things against Mr. Fowke, but as Clavering did not see why Fowke should not have told him about the affair, (Hastings' connection with Captain Weller or the particulars of the malangis' complain), he refused to comply with Hastings' request that he would not trust any more petitions to Mr. Fowke. Some time after this, there was a petition from Varanasi Ghose which Clavering likewise referred to Fowke, after having previously sent to Kamaladdin. This reference produced another complaint of the Governor-General against Mr. Fowke, (the arzi,) requesting again that I would withdraw my confidence from Mr. Fowke; or, at least, that I would not suffer him to examine petitions but in my presence. As this complaint, and the petitions which accompanied it, were to stand upon our

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\* I find from the impression of Kamal's seal on a petition in the High Court Record-room, that his name was Kamaladdin \*\* not Kamiladdin. The name means perfection of religion. The seal bears in Persian figures the date 1178. I am assured by a Mahomedan gentleman that this must be a Hijri date, so that the corresponding English one is 1764. Thus then Kamil called himself Kamaladdin Ali Khan a year before the date of Ballaki's bond, and six years before the bond was published. This seems destructive of Kamal's evidence, and especially of his statement that he did not use his title till 1771. or 1772. Besides why did he drop the *Mahomed*, and assume the affix *Din*?



consultations, it was the opinion of the Council that Mr. Fowke should be desired to come there himself to explain his whole conduct. I assured the Council that if Mr. Fowke had acted improperly in the execution of the trust which I had committed to him, I would withdraw it. But the Governor-General not choosing that Mr. Fowke should come there to explain his conduct, I had no other means left than to examine him myself. At his returning (from Clavering's house ?) I desired him to write a letter to the Council and to give them the same explanation which had satisfied me ; and I think, but am not positive, that I took his affidavit to the truth of the contents of the letter ; but as I still thought that the assertions made by Kamaladdin should not, for Mr. Fowke's honour and mine stand, I desired Mr. Fowke to examine his own servants, who had been present at the examination, and to send their depositions into the Council. The persons themselves being examined, I was of opinion that all the assurances of Kamaladdin were entirely false and groundless. Mr. Roberts, my Persian interpreter, came to me soon after this, and from that time to this day, I am not conscious that I have ever sent one petition to Mr. Fowke."

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"From the 15th November to the 20th December, was the only time in which I sent petitions to Mr. Fowke." Hastings' touchiness about Captain Weller is explained by a letter from Hancock to his wife, of 19th April 1772, in which he says that Captain Weller, "whom you know perfectly well," is a member of Mr. Hastings's family.\* Hastings deposed, (1179) that Kamaladdin complained to him in December, and said that Vansittart was present on the occasion.

A letter from Mr. Fowke to the Council, dated 18th April 1775, (1094-95), enables us to know that Kamaladdin complained to the Council on 13th December. Fowke's letter is so important that I give it entire:—

"To the Honourable Warren Hastings, Esq., Governor-General, etc., Council of Revenue.

Honourable Sir and Sirs ; On the 13th December last, Kamaladdin Ali Khan delivered to your Board a paper containing many falsities injurious to my reputation, which I refuted upon my oath, and the oaths of two other persons. He has now put another paper into my hands, which I

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\* There is an allusion to Captain Weller in a letter from Hastings to Dupré (Gleig I, 300) but the fullest account is given in Hastings' observations on 15th November 1774. (Beng. App.) There he says "I beg leave in this place to mention as a fact universally known, that one of the persons mentioned to have held a share under the contractor's name—Captain Weller—was a man to whom I bestowed that degree of protection which it was in my power to give him ; and upon that account alone he came to Bengal and remained in it till his death ; that independent of the ties of affection, I feel a repugnance to rake out the ashes of the dead," etc., etc.

take the liberty of enclosing to you for my further justification. In this paper it is pretended, that the Governor-General was active beyond the limits of justice to forward a charge tending to my dishonour. If it contains a calumny, I shall rejoice to hear that the author has a brand of infamy set upon him, as a public warning to all calumniators and detractors. But, whatever may be the issue of the inquiry, it is evident that the Governor-General once thought Kamaladdin Ali Khan a person whose testimony was not to be rejected, when against me; and therefore I hope I may be indulged in a request, that the recantation of Kamal Ali-addin may have a place on the records, as well as his former accusation. Conscious of the respect I owe to Government, I cannot mention the Governor General's name without pain, though essentially necessary to my own particular justification.

I have further the honour to enclose a paper which Kamal Ali-addin declares to have been the first account, which he wrote with his own free will."

I am, etc.,

JOSEPH FOWKE.

This letter enclosed two papers purporting to be statements by Kamaladdin. The first, called in the depositions the long *arzi*, and the great *arzi* (1214) was a long narrative of what took place in Mr. Hastings' house in December, and is the paper which Fowke and Nanda Kumar were afterwards accused of extorting from Kamal. The other was the original petition, which Kamal presented to Hastings in December, and is spoken of as the small *arzi*.

It will be observed that Fowke's letter speaks of his having refuted Kamaladdin's charges upon his oath and the oaths of two other persons. This is, no doubt, the examination to which Clavering referred in his deposition, and to which he alluded in his minute of 8th May when he called Kamaladdin an infamous creature, and justified the expression by the remark, that his veracity had been disproved by three positive witnesses.\* The small *arzi* (1097) shows us that Varanasi Ghose's complaint against Kamal was about 5,000 Mans of salt, and Kamal's evidence (1154) gives us the particulars of what took place between Kamal, Varanasi, the General, and Mr. Fowke. Kamal says that Varanasi complained against him to General Clavering, and that the latter sent for him. Kamal presented a *Nassar* of five rupis, but the General did not take them, and gave Kamal *pan*, and told him to come next day. He came, and the General wrote a letter and sent it and another paper, (doubtless Varanasi's complaint) together with Kamal and Varanasi to Mr. Fowke. When they arrived, Radha Charan was with Mr. Fowke, and they waited down stairs till he had gone. Then they went up, and Mr. Fowke proceeded to question Kamal about Hijli and its revenues. Varanasi then told Fowke that Kamal had rented the Thika Khalaris from English gentlemen at a great expense. "What do you mean

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\* It appears that one of these witnesses was Mahomed Mashraf, a Munshi of Mr. Fowke.

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by "a great expense," said Fowke. and Varanasi explained that Kamal had spent a great deal in giving bribes to English gentlemen. Fowke asked Kamal if this was true, and he said it was false. Mr. Fowke replied, "you have given rupis to the English gentlemen." Then young Fowke came in, and there was a great deal of conversation between them, and young Fowke allowed Kamal to go, and told him to come next day. He did so, and Mr. Fowke asked him if he had not given money to Mr. Vansittart. He denied it, and Mr. Fowke got angry, and he and his son talked together in English, and Kamal was again allowed to depart. The third day Kamal again went, and was asked again about the giving of bribes. "I said, I had given nothing to anybody." He said, "you speak this without reason." I then said, "I am a farmer, and no thief." Kamal then came home, and afterwards went to the General's, but he was out.

*Question.*—"What did you do next"? "I came home and considered in my own mind, whatever has passed between Mr. Fowke and me, if I write, and give (?) so much, I do not know whether the Governor would be angry with me? Therefore I did not write much; but having caused a little to be wrote, I went and gave it to the Governor, and I told him all by word of mouth.\* The Governor said "You have wrote in your arzi little, and by word of mouth you say a great deal; whatever you tell me by word of mouth write down in an arzi, and I will inquire about it in the Committee." I answered, "I have not my munshi with me; I will write it out, and bring it to-morrow morning." The Governor answered, "If you have not your munshi with you, take mine, and whatever you have to write, he will write it." The words the Governor then used in the Hindustan language, I did not understand. He desired Mr. Vansittart to explain them to me in Persian; then Mr. Vansittart explained them to me, that the Governor had said, "my munshi is here; do you cause it to be wrote by him." I agreed to it; and the Governor called his own munshi, Shariyat Ula Khan, and told him, "whatever this man has tō

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\* In another deposition (1193) he said "I had numberless thoughts in my own mind; but I went and gave the small arzi to the Governor, for this reason, that the Governor was a great man and Mr. Fowke an Englishman; and that if I wrote a good deal, he might be angry." Sir J. S. (I, 82) calls Fowke a European, as if to imply that he was not an Englishman, and says that he was bitterly opposed to Hastings. Fowke was an Englishman and a friend of Dr. Johnson. I am not aware that he was bitterly opposed to Hastings, until Hastings prosecuted him. He was introduced to Hastings by the latter's patron, Sir George Colebrooke, and Hastings promised to do all he could to serve him. (Gleig I, 190) Hastings admitted (1,200) that he might have told Fowke that he must part with scruples if he meant to be served. He denied that his meaning was that he should part with his integrity, but still "parting with scruples" was a curious phrase.

write, do you write for him." I then caused him to write whatever had passed between Mr. Fowke and me; having wrote it, I gave it to the Governor; and the Governor having caused it to be read to him by the munshi, he kept it, and gave me my dismissal, and returned me the small arzi I had given him. I then came to my own house." On being asked the dates of these occurrences, Kamal said that he did not remember when he got the letter from the General, but that the conversation with Fowke, apparently, that on the third day, was either the last day of Agrahan, or 1st Paush. The first Paush, however, seems to be 14th December, and so, if Fowke was right in saying in his letter that the petition of Kamal was laid before the Board on 13th December, Kamal's memory must have been at fault. It is important to notice that Kamal gave the dates more correctly in the long arzi (1095). He asserted afterwards that this petition was extorted from him, but he admitted that it was written by his own munshi, and that he himself made it over to Nanda Kumar. He admitted, too, that it was written on 6th Baisakh, that is 17th April (1080) and consequently two days before he complained to Hastings or Impey. Here it may be well to note that there was no assertion by Kamal that Fowke had made him write the long arzi at his house, though the charge, as drawn up by Mr. Pritchard, implies this. What Kamal alleged was that Nanda Kumar got him to draw up the petition on 17th April, and then sent it over to Fowke. Two days afterwards Fowke asked Kamal to seal it, and it was this, apparently, that Kamal objected to, rather than to the contents of the petition.

Mr. Fowke said, "seal this, and give it." I said, "there is no agreement between Maharaja and me to seal; it is not an *arzi*, it is a *jawab-sawal*." In fact, the petition was written out on Saturday the 4th Baisakh, that is, April 15th, as Nanda Kumar's deposition shows, (1083) and Kamal's own account requires that it should have been written at least as early as 5th Baisakh, for the 8th Baisakh was the 19th April, and the day after the alleged extortion of the sealing by Fowke. For the reasons that the long arzi was written by Kamal's own munshi, that its statements substantially agree with the other evidence in the case, including even the depositions of Hastings, Vansittart and Shariyat Ula Khan, (1179-85) and also because the jury found that Fowke had not extorted it from Kamal, I believe that the said paper is a correct narrative. The paper is very long, but it is very important and ought to be reprinted. It begins with stating that it is a declaration on the faith of Kamal's religion. It is thus, in fact, an affidavit. There is, therefore, no relevance as regards this petition in Sir James Stephen's view, that natives

look upon common falsehood as fair play, but regard perjury with horror (vol. I. pp. 204, and 206.) Here, I may observe, that though I have sometimes heard ignorant Englishmen speak as Sir J. Stephen does, of what he calls the current native view about falsehood, I have never seen it exemplified in practice. My experience is, that if a native is truthful, he is so equally with or without an oath, and that if he is not, the oath makes no difference to him.

The petition goes on to say that Mr. Fowke heard both sides, and then dismissed Varanasi and Kamal. On the same evening the latter went to see his friend Sadaraddin Munshi, and told him what had occurred. Sadaraddin advised him to relate it to Ganga Govind Singh. Kamal objected to do so at first, but on 19th Agrahan, he did go and tell Ganga Govind, who said nothing, but went off to the Darbar. The report writes it Faghun, but it is clearly Agrahan that is meant.

Next day, 3rd December, at noon, Munshi Sadaraddin sent for him, and told him that Ganga Govind had told Mr. Graham about Fowke's interrogatories, and that Mr. Graham had gone straight with the news to the Governor, and had then come back and told Sadaraddin to send for Kamal, and tell him to write a petition on the subject, and deliver it to the Governor. Kamal drew up a petition and shewed it to Sadaraddin, who told him to take it to Ganga Govind, adding "what I now tell you is by the direction of Mr. John Graham." Ganga Govind told Kamal to put in about Fowke's asking about the douceurs, to which Kamal replied that Mr. Fowke had not said so to him. Then Kamal went back to Sadaraddin, and while he was there, Ganga Govind came in, and the two told him that he need not be afraid, and that he should write the petition. He did so, but did not deliver it, and on 26th Agrahan, 9th December. Ganga Govind said to Kamal, "You have not yet delivered the petition, and Mr. Graham is very angry about it; you ought to go immediately to the Governor, deliver your petition, and wait upon Mr. Graham to-morrow, with the account of your having done so, and I will be at Mr. Graham's at that time too." Kamal immediately went, (this would be on 9th December,) and delivered his petition. Hastings objected that it was different from the account that had been given him by Mr. Graham. Then followed the writing of another petition by Hastings' munshi, as related in Kamal's deposition.\* Next day, the 10th

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\* According to Kamaladdin, Hastings spoke Hindustani very imperfectly. He says "the words the Governor then used, in the Hindustani language, I did not understand. He desired Mr. Vansittart to explain them to me in Persian; then Mr. Vansittart explained them to me, that the Governor had said "My munshi is here, do you cause it to be wrote by him." If Hastings could not say even so much in Persian, or intelligible Hindustani, he must have been less proficient than even his friend Impey in know-

December, Kamal went and told Vansittart and Rajballabh. It appears, however, from Vansittart and Hastings' evidence, and also from Kamal's deposition, 1156, that Vansittart was also present at the interview between Kamal and Hastings. Hastings and Vansittart and the munshi of course say that Kamal dictated voluntarily the petition which Shariyat Ula wrote out. But the important thing is, that it was written by Hastings' munshi, at Hastings' house, and that the petition with which Kamal went to Hastings was the small arzi (1097) which says nothing about Fowke's inquiring about douceurs. "The petition," says Hastings, "was in terms so brief and general, that I returned it to him, telling him that as he had stated it, it did not amount to a complaint." Vansittart's evidence is to the same effect. "Mr. Hastings' was in the south-east room of his house; Kamaladdin was there, and others, when I went in; Mr. Hastings told me that Kamaladdin had been complaining that Mr. Fowke had threatened him with punishment, if he did not deliver an account of *baramads*; that he had been relating every thing very circumstantially by word of mouth, but had given in a petition very short, and of no kind of consequence. It is important, also, to point out that Ganga Govind Singh was present then, (1185). No doubt this would have its effect in putting Kamal under constraint. It is an unfortunate circumstance that the petition which Shariyat Ula wrote out has not been published in the report, though it appears to have been produced at the conspiracy trial, (1168) was laid before the Board, and is printed in the Bengal Appendix. I have been thus minute in describing the occurrences of December, because Sir J. Stephen passes them over in silence. It will hardly be credited, but it is the case, that he says nothing whatever about Kamal's petition of December. He represents him as coming for the first time to Hastings on 19th April, and expatiates on the caution with which Hastings acted then, and the care with which he tested his statements (Vol. 2, pp. 46 and 51.) He does not tell his readers that Hastings had reason to be shy of trusting Kamal, or that he had not been so circumspect in December. Hastings then took up the case so eagerly, that he insisted on Kamal's having the complaint written out there and then, and he took this petition, which his own munshi had written out, and presented it to the Board.

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ledge of the native languages. Barwell was equally ignorant. Sadaraddin was asked whether he had told Barwell about Kamaladdin's complaint concerning the *arzi*s, etc., Kamal had asked him to do so, (1080) and he answered, "There were but four *gharis* of the day remaining. I acquainted Mr. Barwell of something; but he does not know the language; I told him but little." And yet these were the two men whom the Regulating Act put into Council on account of their knowledge of India.

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It must have come to nothing, for we hear no more of it; Fowke was not prosecuted then, and he vindicated himself to the satisfaction of Clavering, and apparently of the other councillors, by his own evidence and that of his servants. Surely these facts have an important bearing on the credibility of Kamal. It is also to be carefully remembered that Fowke and Nanda Kumar were found not guilty of having extorted the *arszi*, that is the great *arszi*. In other words, Kamal's charge on this ground was found false. This verdict never was reversed, for the charge in Barwell's case was about another paper, *viz.*, the *fard*. The *arszi* was not an item in that charge. Thus then we have an unchallenged verdict that Kamal had lied about the *arszi*. Thus he was twice found to be a liar, once in December by the council, and again in July by a jury.

Sir J. Stephen cannot understand why the jury found for the defendant in one case, and for the prosecution in another. Nor can I fully explain it.\* One explanation, however, is that the charge in Barwell's case was only about the *fard*, and the jury may have believed that the evidence about this was confirmed by Fowke's observations. It may have been, too, that the jury convicted in Barwell's case because so little evidence was given for the defence. The four writers who were present at Fowke's house, and two of whom attested the great *arszi*, were not called though they were alive and in Calcutta. Lemaistre, J., asked a question about this, and it is possible that in charging the jury, stress may have been laid on the absence of these witnesses. But then it does not appear that they were examined in Hastings' trial either, though they were at the preliminary proceedings. Perhaps it was understood, that a severe punishment would not be inflicted, and that it was on this account that all the witnesses were not examined. At all events, the fact that Fowke was only fined Rs. 50, seems to indicate that the judges did not concur with the verdict, or had small sympathy with Mr. Barwell. When Sir James Stephen (at pp. 84, 86, and 88) argues in favour of Kamal's story about the *arszi*, in opposition to the account by Fowke and others, he not only prefers believing a man whom he himself calls a very poor creature, but he overrides the verdict of the jury! One would be glad to know how he defends such a position. Unless he chooses to say "Kamalus est mihi instar omnium," I do not see what he has to stand upon.

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\* The difficulty is that evidence was given in the Hastings' case about Fowke's question to Barwell, both Vansittart and Elliot deposing about it, and yet the jury acquitted. When Sir J. Stephen observes in a note (vol. I, p. 102) that the jury afterwards seem to have found that there was such a paper as the *fard*, he leaves out of view the fact, that the point is one on which we have the verdict of one jury against another.

I observe that Sir J. Stephen implies (202) that the question of the extortion of the long *arzi* was in issue in both cases, the effect being to lead his readers to suppose that the two verdicts are irreconcilable, and that the one in Barwell's case supported Kamal's story about the *arzi*. This, however, is a complete misrepresentation or mistake. There was no charge in Barwell's case about the long *arzi*, and there could not be, for he is not mentioned in it. The sole charge in Barwell's case was about the *fard*. On the other hand, there were two charges in Hastings' case, one about the *arzi* and the other about the *fard*. The prisoners were acquitted on both counts, and so far as the *fard* is concerned the verdict was contradicted by that in Barwell's case. But there never was any contradiction about the *arzi*. It is curious that the existence of the *fard* was the point about which Hastings had doubt; he was clear as to the *arzi*, but he thought at first that Fowke might be innocent about the *fard*. (Stephen I, 80.)

In my opinion this doubt was just. If the *fard* had ever existed, Fowke would surely have taken the attestation of two witnesses to it as he did at that time with regard to the *arzi*. The next thing that we hear of Kamal is that he was arranging about his son's marriage. This was some time in Phalgun, (11th February to 11th March). He lived at Hugli, and it was necessary for him to go home and settle the marriage. He therefore went to see Nanda Kumar in order to get his dismissal, (Rukhsat,) and to ask the Maharaja to honour him by receiving sweetmeats from him on the auspicious occasion, Kamal, both according to his own account, and Nanda Kumar's, was an old friend of the latter. In his evidence in the forgery case, he said that Nanda Kumar had been his father's and his grandfather's friend, and that he himself had been protected by him since he was ten years old. Similarly, Nanda Kumar said, (1082) that Kamal had been with him in his childhood for two or three years. Apparently, however, they had quarrelled, and it was in order to become reconciled that Kamal went to Radha Charan and asked him to get his father-in-law to accept the sweetmeats. Radha Charan agreed to mediate and told Kamal that the Raja's house was his old home, and that he must be on terms of friendship with the Maharaja. According too, to Kamal, Radha Charan bragged of what his father-in-law had been doing about the Governor, etc., and said:—"What they have ate they will be obliged to disgorge; and will be put to shame in their own country, and will be called thieves."

We are not told what the previous quarrel between Kamal and the Raja had been about, but it is not unlikely that it related to Fowke's affair of December. Kamal went off to Hugli, and did not come back till the end of the month. He said (1159) that



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he returned on 30th Phagun, or 1st Chait, and that on the first day after his arrival he paid his respects to the Governor, Mr. Vansittart, and all the gentlemen.\* The second day he went to see the Raja. The Raja was not at home, and so Kamal sat down in the diwankhana, but in a little the Raja came in, and Kamal presented his nazar of one gold muhur. The Raja first politely asked about the marriage, and then said : " Did you hear at Hugli what passed between the Governor and me, and how I have proved him to be in the wrong." Kamal said he had heard something about the *baramads*. Kamal had another object in visiting the Raja, *viz.*, to borrow Rs. 3,000. He asked for it, he says, on 1st Chait, and got the loan on the 13th or 14th idem. The 1st Chait was Sunday, the 12th March, and so, just one day after Nanda Kumar had presented his petition against Hastings. I beg to point out here to my readers, that all this intimacy with Nanda Kumar, and this borrowing of money from him, took place after Kamal, according to his evidence in the forgery case, had found out that Nanda Kumar had been forging his name, and had on that account magnanimously declined to ask him to be his security ! Apparently Kamal had now fallen from the moral elevation he had attained in 1772 or 73. The next incident was Kamal's presenting three petitions to Nanda Kumar, two of them against Ganga Govind Singh, and the other against a Mr. Archdekin. This occurred in the latter end of Chait, (1081,) and consequently some time in the beginning of April. Kamal said that he asked Nanda Kumar to give the petition against Archdekin to the committee, but to keep those against Ganga Govind by him. Why he should have made them over to Nanda Kumar if he did not wish them presented it is difficult to imagine. Kamal's story is that he did not want them filed, as his only intention was to frighten Ganga Govind. He also says that the contents of the petitions were not true. " I don't deliver them in as complaints," he said to Radha Charan, " was I to complain I would complain of what is true. " In order to frighten him, I have wrote what I pleased myself." This was at least candid on the part of Kamal, but Sir J. Stephen is resolved Kamal should be protected against disparagement, even by himself, and so he says that he can see nothing disingenuous in Kamal's petitions (Vol. I, p. 205, note).

Whether Kamal's complaints against Ganga Govind were true or false, it seems to me impossible to doubt that they were intended as "*baramads*," and that they were given in support of Nanda Kumar's schemes. It is impossible to believe that Kamal would give them to Nanda Kumar when he knew

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\* Kamal evidently was desirous of keeping in with both parties.

that the latter was bringing charges against the Governor unless he meant Nanda Kumar to use them. Ganga Govind was a member of the Government and connected with Hastings. He took an active part in getting Kamal to go to Hastings in December with a complaint against Fowke. He was also the man who long afterwards, in concert with Devi Singh, so infamously distinguished himself in Rangpur and Dinajpur.\*

Another thing which proves the intention with which he, Kamal, presented the *arsis*, is that the Maharajah had previously been speaking to him about *baramads*. According to Kamal the Raja spoke about nothing else. "Whenever I went," he says, "he conversed with me on no other subject but the *baramads*." When, therefore, after such conversations Kamal gave in *baramads* about Ganga Gobind, what could Nanda Kumar understand except that he was to present them? It was about Hijli and other salt estates that Nanda Kumar invited Kamal to give *baramads*, and lo! here he brought him three.

In order to understand what was the dispute between Kamal and Ganga Govind it is necessary to say something about Kamal's position as a salt-farmer. Kamal was the farmer of Hijli. This was formerly a district or chakla consisting of the Parganas of Tamluk, Mahishadal, etc., but is now part of Midnapur. It was a salt-farm, but not entirely so. There was also land, and Kamal had to pay or collect Rs. 75,000 in land revenue, besides furnishing a large quantity of salt. Sadaraddin Munshi speaks of Kamal's being a competitor for the farm in Asah 1179 (June 1772.) It is probable, however, that the arrangements about the salt did not come into force till the cold weather of 1773, for nothing could be done about salt in the rains, and the scheme for the settlement of salt-farms was not propounded till October 1772. (Harington, 2, 381.) One of Kamal's petitions, too, (1099) speaks of the settlement of Hijli being made in 1180 Vilayati (October 1772.)

We learn (Harington 3, 659) that there were two ways of managing the salt revenue; one was known under the head of *Khasana*, and the other under the head of *Thika*. In the first

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\* Many years afterwards, (1787) when Hastings was being impeached and was anxious to collect the suffrages of the natives of India in support of his administration, the first name he mentioned amongst those of men who could help him was that of Ganga Govind Singh. (Gleig, III, 323.) It is important to note that Ganga Govind was dismissed by the majority in May 1775 on account of the very transactions referred to in Kamal's petitions. Granting that this was unjust and the result of spite, still it shows that the Council acted on the *baramads*. This, and the fact that G. G. Singh paid Rs. 10,000 if not Rs. 26,000 in order to buy off Kamal's opposition (for this is what the arrangement made by Sadaraddin amounted to) show the ticklish position of affairs and how anxious G. G. Singh and his friend Sadaraddin must have been to win back Kamal to their side.

instance the land revenue was paid wholly or chiefly in salt, and in the other the khalaris or salt-works were let out at a certain rent or *thika*. Kamal was interested in both arrangements. He farmed Hijli, and paid in salt, and in cash, and he also held 400 *thika* khalaris. It was about the latter that Varanasi Ghose complained to General Clavering in the beginning of December. Varanasi Ghose, as Kamal's petition (1097) shows, had to do with the *thika* khalaris and complained against Kamal about 5,000 Mans of salt. Kamal calls him his raiyat (1154) and this is explained, I think, by the evidence of Hastings (1179.) He says "Kamaladdin in the month of December complained that Mr. Fowke had attempted, by promises and threats, to extort from him a declaration, that he had given bribes to English gentlemen and *matsadis*, for the grant of the *thika* khalaris, or the adjustment of accounts relative to them (I am not certain which.) These were salt-works, not originally included in the lease of the farm of Hijli, but worked by other farmers, by people brought from other parts, and afterwards given to the farmer of Hijli, to prevent competition."

It was these *thika* khalaris, too, which Kamal sublet in Baisakh 1181 (April 1774) to Hastings' banyan Kanta Babu. The petition (1100) speaks of Babu Leckenace and Nundee as the sub-lessee, but I need hardly observe that this is a misprint for Lok Nath Nandi, the infant son of Kanta Babu in whose name he took Pargana Baharband, etc. This agrees with the remarks of General Clavering in the minutes of 30th December 1774 and 12th May 1775, about the connection between Kamaladdin and Kanta Babu.

The arrangements for the salt-farms, as given in Harington, were briefly as follows: The farmer engaged to deliver a certain quantity of salt yearly to the Company at a fixed price, and he also agreed that he would deliver to the Company any surplus salt which he might make at an advance of Rs. 25 on the contract price. He was not to sell salt except to the Company. In consideration of these stipulations he got an advance of three-fourths of the value of the salt that he was to deliver. It is clear that unless he got this advance, he could not work his farm, for he could not pay the *malangis*. Kamal speaks of taking the farm of Hijli for five years (1082) but perhaps this did not include the salt, for it appears (1098) that he took the salt-works in certain parts of Hijli on a four years' lease in Magh 1181 (April 1774.) The agreement was that he should supply a lakh of *Mans* of salt at a rupi a *Man*, and that he should get an advance of Rs. 60,500. After this Ganga Govind, by an underhand settlement, persuaded Kamal to agree to pay him Rs. 26,000 on the understanding that Ganga Govind would induce the Government to forego all claim to any

salt which Kamal might make over and above the stipulated lakh. This surplus Kamal was to be allowed to dispose of as he chose, and to keep the profits to himself. In other words the two arranged to cheat the Government. Upon this agreement Kamal paid Ganga Govind Rs. 15,000. Next month Kamal asked Ganga Govind to give up the salt (the surplus salt, I presume,) but Ganga instead of doing this took Rs. 15,000 more from him. The result was that Kamal could not pay the salt-workers, and they complained against him; Kamal said further, that he was a poor man, and that he was utterly at a loss where to raise the money, so as to complete the investment. He therefore prayed that the diwan should be summoned and ordered to return his money with interest. There was also another complaint against Ganga Govind for oppressing the ryots and salt-workers of Hijli. We are told that the dispute between Ganga Govind and Kamal was afterwards settled by their common friend Sadaraddin Munshi, that is, by the man who was then the munshi of Nanda Kumar's special enemy, John Graham (1147) and was afterwards in the service of Mr. Barwell. Ganga Govind, it is said, paid Kamal Rs. 10,000 and wrote off, Rs. 16,000 of Kamal's debt for land revenue, but this was no proper settlement if Kamal's petition was true. According to it, Ganga Govind took from him Rs. 30,000, and moreover did not fulfil his bargain about the surplus salt. I do not think that any candid mind can accept Kamal or Sadaraddin's account of these transactions, or doubt that Kamal was induced by underhand means to withdraw the charge against Ganga Govind.\*

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\* Hastings restored Ganga Govind to office in November 1776, i.e. as soon as he got the power into his hands again. On 12th May 1775, Hastings gave a curious illustration of what he considered the one thing needful in a public servant. He said "I have heard him (Ganga Govind) loaded, as I have many others, with general reproaches, but have never heard any one express doubts of his abilities." When Hastings took back such a man after his dismissal, he became virtually responsible for all his subsequent enormities. Mr. Peter Moore, when examined in Hastings' trial, gave very strong evidence against Ganga Govind. He also referred to Kanta Babu's zamindari of Baharband, and said that the engagement was for Rs. 82 or 83,000, while the settlement with the ryots was for Rs. 353,000. In July 1774 Hastings described Lok Nath Nandi as a man of credit, and therefore a proper person to have charge of the Baharband zamindari. Lok Nath was then a mere child, and when the majority taxed him with this description of him, Hastings replied that everybody knew that the practice of *benami* was prevalent in India, and that his description referred in fact to Kanta, who was the real farmer. Kanta, however, told the majority that Lok Nath was the real farmer, and that if he died, the farm would lapse to the Company. This shows the little value which is to be attached to Hastings' explanation of the relation between Kanta and Kamaladdin, and, indeed, Hastings stated that he knew very little of his banyan's affairs.

Nanda Kumar was examined at the preliminary inquiry on 20th April, and the circumstantial account which he there gives, makes us regret all the more that we have no record of his examination on 6th May.\* His statement (1082) is, in substance, that Kamal came to him and complained about Ganga Govind Singh's having taken Rs. 26,000 from him, besides Rs. 3 or 400 that his servants had taken. He said that Sadaraddīn and Ganga Govind were in friendship, and that though he had several times demanded his money from them, they would not pay it. Nanda Kumar said that if that was so, the only remedy was to complain to Council. On another day Kamal brought two petitions, and Nanda Kumar after reading them, sent, at Kamal's request, his son-in-law Radha Charan, with Kamal, to Mr. Fowke. This so far agrees with Kamal's account that he too admits that he went with Radha Charan to Mr. Fowke's. He denied that he gave Mr. Fowke the *arsis*, but it is not clear why he went to see a man with whom, as he says, he had a quarrel in December, unless to get him to give in the *arsis*. Mr. Fowke's letter, too, of 25th April (1097), is, I think, sufficient to show that Kamal took the *arsis* to him. Nanda Kumar went on to say that some days elapsed after the giving of the *arsis*, and that on 5th Baisakh he was at the General's when he got a message from Radha Charan that he and Kamal were at the house of Mr. Fowke, and asking him to call in as he went home. He did so, and Mr. Fowke asked Nanda Kumar to examine Kamal, and inform him if his representations were true. Nanda Kumar then went home, and at 7 P.M., Kamal came to his house with a munshi, and bringing the draft of an *arsi*. This was found not to be well worded, and the munshi, Khuda Newaz, began to make a fresh draft. Before he had got half through it, Kamal, who had been ill in Fowke's house in the day time, was obliged to leave on account of illness. His munshi remained and finished the paper. It was then sent by Nanda Kumar to Kamal by the former's servant, Yar Mahomed, to be sealed. Yar Mahomed here takes up the story (1084) and states that he went to Kamal with the *arsi* and that Kamal sealed it, saying that he wrote it, and that if a hundred Korans were put on his head, he would swear to the truth of every word of it. Khuda Newaz, the munshi of Kamaladdin, did not admit (1171) that his master sealed the *arsi*, but he admitted, as did also Kamaladdin, that Yar Mahomed came to get it sealed.

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\* This examination has lately been discovered in the High Court Record-room. It is very short, and merely states that after the depositions had been read to him "this examinant denies all and every the matters and charges therein contained, and doubts not to prove the falsity thereof."

There is also a curious statement by Kamal's khansama, Husein Ali, (1172) that Khuda Newaz met him on the stair, and told him Kamal was going to seal a paper, and so he had better bring the sikka-dawat. He did so, he says, and waited on the stair, but the seal was not required. According to Nanda Kumar he did not see the *arsi* again till next morning. It was sealed, and he told Radha Charan to take Kāmal with it to Mr. Fowke. He says this was on Sunday, and therefore it appears that it was the 4th Baisakh when he visited General Clavering, &c., (5th Baisakh was Sunday, the 16th April.)† This, too, is supported by Saddaraddin's evidence (1177) who says that on the night of 3rd or 4th Baisakh, Kamaladdin told him that the Raja was wanting him to write an *arsi* about the *thika* khalaria business, evidently that of Varanasi Ghose, in such a way, that the Governor and Mr. Graham might get a bad name. Here I may note that Sir J. Stephen is incorrect in saying (I, 85) that Nanda Kumar deposed that Kamal pressed Fowke to deliver the petition. "On Sunday," says Nanda Kumar, "Kamal gave the petition to Mr. Fowke, and on Tuesday Nanda Kumar went to Mr. Fowke's and there the *arsi* was, with Kamal's consent, attested by two witnesses." In the evening Kamal came and begged Nanda Kumar to use his influence with Fowke to make him give in the petition against Ganga Govind Singh before the other one. Nanda Kumar agreed, and went on the Wednesday morning to Mr. Fowke's, but Fowke said he would do what was proper. "When I was going, Kamaladdin represented to me, that it was very hard upon him that the *arsi* against Ganga Govind was not delivered; for, if the other was given in first, he feared he should get no advantage from that. I advised him to be patient, and to give in his *arsi* to the Council, where he would obtain redress. He would not attend to what I said, but ran to the Governor's."

I cannot say if the whole of this account is true. Nanda Kumar was on his defence, and no doubt he gave the best side to his own case. But I am sure it is much more true than Kamal's account. It is more probable, and it is supported by the verdict of the jury who found that the *arsi* was not extorted. What I think clear is, that Kamal was dissatisfied with Ganga Govind and Sadaraddin, and was terrified at the consequences of his not fulfilling his salt contracts. He therefore had recourse to Nanda Kumar, more especially as his friend Sadaraddin was not then in Calcutta.\* Kamal offered Nanda Kumar the *baramads* against Ganga Govind, and Nanda Kumar gladly accepted them, as they strengthened his case, and probably, in order to bind Kamal still more to his interests,

\* There may, however, be a mistake of a day in Reid's Chronological tables. Kamal (1080) speaks of Wednesday the 19th as being the 9th Baisakh.

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made him a loan of Rs. 3,000. Nanda Kumar was working through Fowke, who had the ear of the General, and so sent Kamal to him, and as a peace-offering, got Kamal, or Kamal agreed of his own accord, to give a recantation of his complaint of December.

Kamal, however, was frightened about this petition's going in, and knew it would not help him to get his money from Ganga Govind, which was all that he cared about. Meanwhile also, Sadaraddin came back from the country, and persuaded Ganga Govind to give Kamal Rs. 10,000. No doubt he, at the same time, induced Kamal to come back again to their side, and so Kamal went to Mr. Fowke on Tuesday the 18th April and tried to prevent him from sending in the *arzi* on that day. It seems to me that the fullest and fairest account of what took place on 18th April is given by Francis, the son of Joseph Fowke. He admits Kamal's distress, and also proves that Kamal sealed the small *arzi* in his father's house, and acknowledged the great *arzi*. He proved also that the great *arzi* was attested by two of his father's Portuguese writers, and that he (young Fowke) by mistake, wrote 17th April on one of them. His evidence went to disprove the existence of the *fard*. How Nanda Kumar was convicted in Barwell's case, I cannot comprehend, for Fowke's indiscreet behaviour in Court was only evidence against himself, and there was apparently not a particle of proof that Nanda Kumar had anything to do with the *fard*. According to Kamal, it was all the doing of old Mr. Fowke. Perhaps the jury thought that as Nanda Kumar was already condemned to be hanged, a conviction in the conspiracy case could not hurt him; but surely it is some evidence of the recklessness of Calcutta juries of the day.

Sir J. Stephen asks (p. 88) why should Kamal rush off to Hastings with his complaint unless what he said was substantially true? But where does Sir James find that he did "rush off?" The alleged extortion of the *arzi* and the *fard* took place on the morning of Tuesday, the 18th April, and Kamal did not appear before Hastings till the next day. The indictments in both the conspiracy cases are wrong in giving the 19th April as the day of the extortion. All that happened on that day was, that in the morning Kamal went to Fowke's to try and get his *arzi*s back, and when he did not succeed, he went off in his palki to Hastings. It appears (1150) that he went to Raja Rajballabh first on the 19th, and if, as appears to have been the case, (Gleig I p., 523,) Hastings was then at Belvedere\* it is

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\* I believe this Belvedere is not the residence of the Lieutenant-Governor, but a house some distance to the south of it, and which is still known as Hastings' House.

difficult to see how Kamal could still be out of breath when he came before him. He had plenty of time to cool down during the palki journey from Calcutta to Alipore. There was no *rushing* in the matter. Kamal left Fowke's house before 1 P. M. on the 18th (1213). He did not go to Mr. Hastings that day, as he might have done. He went to the Maharaja, and to Sadaraddin, and the latter went to Barwell and Vansittart. Apparently what made Kamal start off at the last was, that he saw Mr. Fowke going out, and that he believed he was going straight off to put in the petitions. As a fact, Fowke did put up the *arsis* into an envelope on the 18th, at least he dated the letter the 18th, but they were not delivered till the morning of the 20th, when young Fowke brought them to Auriol while he was at breakfast. Nor can I see any sign of circumspection on the part of Hastings, for he sent off Kamal to complain without ever having seen the *arzi* alleged to have been extorted (1079).

According to the reporter's note (1077) Kamal made his appearance before Hastings at 9 A.M. on the 19th April, but this note is not evidence, and it is opposed to the deposition of Khuda Newaz, who says (1171) that Kamal and he went to Mr. Fowke's at one and a half prahars of the day, (about 10-30 A.M.) and that they were there for about three or four gharis (hours). Another witness, Masharar Rahman (1176) says that the dispute occurred at about six gharis of the day, but even this would not allow of Kamal's getting to Belvedere by 9 A. M., especially as he went first to the Rai Rayan, Rajballabh. Rajballabh was one of the persons whose names were said to be entered in the *farz*, and who were invited afterwards to prosecute but declined. We are not told that Kamal had an interview with him that morning, but this seems implied by the question, "After you went to Raja Rajballabh, whom did you first apply to?" Khuda Newaz, too, says that he went on foot with Kamal's palanquin as far as Raja Rajballabh's (1172). It seems very likely that it was Raja Rajballabh who put up Kamal to go to Hastings. When Kamal got to Hastings' and explained his business, Hastings said that he could not do him justice, as they, the other Councillors, were three, and he was only two. He advised him to complain to the King's Court, and sent him with a chobdar to the Chief Justice. According to Kamal this was to protect him against the myrmidons of Mr. Fowke, but according to Hastings, it was to prevent his being detained by the servants of the Chief Justice (1181). But Hastings did more than this. He wrote a note to Impey, and sent it by one of his private servants (1181). I suppose that Sir J. Stephen will hardly defend this, for he says (I, 236) that the writing of a letter to a Court on a matter judicially before it, is unconstitutional,



and he adds, that a Home Secretary would never dream of writing to a judge as to the exercise of his judicial duties. Any such application would have to be made by counsel in Court.

But the important thing to notice is that we hear nothing of Impey's refusing to receive a private communication. On the contrary, he acted on it, heard Kamal (1077) and then summoned the other judges to meet him in the evening. Where was the virtuous indignation which the judges showed afterwards when the Council addressed them by letter? The judges could then say, "it is contrary to the principles of the English constitution for any person or persons to address a Court of Judicature by letter-missive, concerning any matter pending before such Court, and that the higher the station is, the act is the more unconstitutional." It is true that Impey was not present when this resolution was come to, but he adopted it in the proceedings of June 23rd. Kamal was examined by the judges on the 19th, and then summons were issued calling on the parties to appear next day. The place fixed was Impey's house, and the examination went on there till 11 P. M. On this occasion Elliot interpreted. On the previous day, Sir John D'Oyley officiated, having for this purpose absented himself from his post at the Council Board. After the examination, the judges called upon the persons affected by the supposed conspiracy, to declare if they would prosecute, and gave them up to Monday, the 24th, to decide. This was on the Thursday night, and next day took place the visit of the Councillors to Nanda Kumar of which so much has been made.\* I do not see anything very improper in it, but no doubt it offended the judges. Meanwhile, Hastings was not idle, for he sent for Kamaladdin to Belvedere on the Saturday and Sunday, and examined him about his complaint. He says he took the precaution of asking the judges if he might do so, and no doubt he did, but this seems to show that he or his friends thought Kamal a slippery customer whom it was necessary to keep to the mark. He had been three times examined already, *viz.*, at Hastings' house, at Impey's on the same day, and again on the 20th before all the judges. If Hastings was so doubtful about the case, and

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\* When the Councillors were taxed with this visit, they retorted by saying that Impey had visited Khwaja Petrusse, who had signed the address in his favour. Impey rejoined, "we (himself and Lady Impey,) have certainly visited more than once. Curiosity originally led us to accept the visit from the Armenian ladies, and complaisance to return it, nor did we think ourselves degraded by it; he being of the first family of the nation in India." Impey also said that Chambers had visited the Armenians. When it suited his purpose, Impey was fond of likening himself in position to the puisne judges, but in fact he ranked a good deal higher, his position being, I believe, next to that of the Governor General. His pay also was greater by £3,000 a year.

if the judges were not so satisfied as to require bail, and had even intimated that there was no case against one of the accused, (Francis Fowke,) were Clavering and his friends so very far wrong in going to see Nanda Kumar for a few minutes? \* Nothing passed between them but, salams, and the common ceremonies (1210).

On the 24th Hastings and Vansittart bound themselves over to prosecute. Sir James Stephen says (1, 89) that Barwell also bound himself over to prosecute, and he corrects the majority for stating the contrary. (1, 102, note) He might have given them credit for being likely to know on 16th May what took place on 24th April. Fowke, in his letter of 25th April, says that Barwell waived his demand for bail, but lest Sir J. Stephen should not think this authority good enough, I beg to refer him to Barwell's own deposition (1204) where he says that it was not his intention to have prosecuted Mr. Fowke, and adds "I neither asked bail, nor was bound over to prosecute:" He goes on to say that he directed his counsel to prosecute, but this may have been after the Council's minute, for he was deposing in July. At all events it is certain that he was not bound over. A careful reading of the reporter's note (1093) would have shown Sir J. Stephen that Barwell was not bound over.†

It is not my intention to analyse the evidence in the conspiracy cases. I have already pointed out that the extortion of the *arzi* was not established, and that the verdict of the jury in Barwell's case in no way affects the previous verdict about the *arzi*. I have also pointed out that Nanda Kumar was convicted on the charge about the *farid*, though there was not a particle of evidence of his having had anything to do with it. One curious incident of the trial is deserving of notice as showing the kind of witnesses that the prosecution brought forward. One Mahomed Ghaus Newaz was called to prove what took place at Fowke's house on the morning of the 19th, and to attest a *surathal* (statement of facts) which Kamal drew up in the course of the afternoon. He first denied that he had signed any paper, and then said he had. Then he said that he had only heard Kamaladdin's name, though it came out afterwards that he lived in Kamaladdin's house. Finally, he denied that Khuda Newaz was his brother, or that he knew him.‡

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\* The animus against Nanda Kumar is shown by the great stress laid on the visit to him. Fowke was the principal accused in the case, and yet nobody reflects on the majority for continuing to associate with him after the 20th April.

† The papers of recognisance preserved in the High Court do not contain one from Barwell.

‡ The report does not say in so many words that Mahomed Ghaus denied his own brother, but he did prevaricate very much, and the

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The fact, however, that he was the brother of Khuda Newaz, and also that the two lived together in Kamal's house, was proved by Khuda Newaz and Husein Ali. We do not hear of this witness being prosecuted for perjury, though he had not the excuse of idiocy, but when Kista Jiban, Mir Asad and Yar Mahomed were thought to have prevaricated in the forgery case, they were at once committed. Mr. Impey tells us (memoirs 139) that Halhed mentions in the preface to his Hindu laws, that he once heard a man, not an idiot, swear upon a trial, that he was no kind of relation to his own brother, who was then in Court, and who had supported him from his infancy. It is evident that Mr. Impey was in happy ignorance that this witness was one called by his friend Mr. Hastings in his prosecution of Nanda Kumar.

There is a point about the conspiracy cases with regard to which I have found no explanation by Sir J. Stephen, or the other defenders of Hastings. This is why were the conspiracy cases not tried before the forgery case? Hastings and Vansittart were bound over to prosecute on 24th April, and two days afterwards Fowke writes (1097) that he is to hold up his hand at the next sessions of oyer and terminer, and gaol delivery. Why then were he and Nanda Kumar and Radha Charan not put on their trial in the beginning of June at the *Assizes*? \* Nanda Kumar was not committed for forgery till 6th May, and Mohan Prasad was not bound over till next day which was a Sunday!† Sir J. Stephen's case is that Mohan Prasad's charge was entirely a private prosecution with which Hastings had nothing to do. What title then

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questions put to Khuda Newaz and Husein Ali show that he disowned his brother and made out that he lived in his own house. The account in Halhed is at p. 51 of his preface, edition 1776. Halhed calls the deposition an instance of *upadhi*, or folly.

\* Hastings was, according to his account, apprehensive lest Kamal should be gained over before the assizes, and also lest Fowke should be able to patch up his contradictions. In his letter of 29th April, he says (Gleig, I, 525) "he has a long time now before him to patch up all these contradictions, for I understand the assizes will not be held before the 15th June." If Hastings had nothing to do with the forgery prosecution, why did he not get his counsel to protest against Mohan Prasad's case being tried before his. The conspiracy cases were not tried till July, though the forgery case ended on Friday, the 16th, and Radha Charan's objection was not made till 20th June.

† The recognisance is in the High Court Record-room. It is dated 7th May and is for £ 10 000. It only refers to a charge of feloniously uttering. Lemaistre had not then drawn out the elaborate charge we now have, nor was it thought that the charge of forgery could be established. On the same day Kamaladdin, Gharib Das Pattuck Kisto Jivan and Ram Nath gave recognisances. Sabut and Nabakrishna do not seem to have been examined then. Gharib Das was the man who afterwards broke down and Ram Nath was examined for the defence.

had it to take precedence of a charge brought by the Governor-General? The objection about Radha Charan's privilege as an ambassador will not explain this, for that objection was not taken till 20th June. The objection was not made, as Radha Charan's memorial shows, (1102) until an indictment had been preferred against him, and this was not till the 19th June. Why were the indictments in the conspiracy cases not drawn up till 19th June while the forgery one was drawn up on the 7th idem? Surely this gives support to the allegations of the majority of the Council in their minute of 16th May that "this attempt (the conspiracy charge,) to discredit the evidence of the Raja not answering the purpose it was intended for, he was, a few days after, again taken up, on a charge of forgery and committed to the common gaol." Sir J. Stephen says that the imputation here made is wholly unsupported by evidence, and is, he believes, false. But it is not false that Hastings' attempt to convict the Raja of conspiracy failed. And I think that Hastings and his advisers must have foreseen that it would fail, for surely no one can read the petition which Fowke was said to have extorted from Kamiladdin, without admitting that it does not contain any charge against Hastings. It does not allege that Hastings compelled Kamal to write a petition injurious to Mr. Fowke. Still less does it allege that Hastings did so, knowing the charge to be false. It represents Hastings, as relying on what he had been told by Graham, and the constraint which Kamal laboured under in dictating it, was an unwillingness to expose Mr. Graham.

The indictment says that the conspiracy was to accuse Hastings of divers enormous and scandalous offences, particularly that he had by divers sinister and unlawful means procured a false accusation against Mr. Fowke, and that Hastings had presented this false accusation to the Council, knowing it to be false. But in fact no such charges can be extracted from the petition, that is the great *arzi*.

This, in my opinion, is strong evidence that the petition was genuine, and was not extorted, but if it was, it was a matter for Kamal alone to complain about, and did not affect Hastings. Graham might have been affected by it, but he had left India.

It is true that in Barwell's case a conviction was afterwards obtained, but I do not suppose that any one will support the verdict in it against Nanda Kumar. There was absolutely no evidence against him about the *fard*, and even if there had been, it is clear that a case in which the principal accused was fined only fifty Rupis, would not have led to a sentence against Nanda Kumar which would have been of any use.

Of course if the prosecution for forgery was really brought by Hastings its taking precedence of the shadowy charge of conspiracy is explicable enough. The forgery case enabled Hastings to have Nanda Kumar deprived of his liberty, for it was non-bailable, and it struck at Nanda Kumar's life. The conspiracy cases were mainly directed against Fowke. Even Kamal did not accuse Nanda Kumar much about them, for he said that the Raja tried to induce Fowke to give back the papers (1152.) The following curious note about the fate of Kamaladdin occurs in an anonymous work called "Transactions in India," Debrett, 1786, p. 244.

"Many are the instances which might be specified to prove how cruelly the exquisite sensibility of the native Indians are (*sic*,) sported with by our countrymen. The tragical story of Kamaladdin will never be forgotten in India, and the dishonour it reflects on our politics will last as long as it is remembered. This man, by the intrigues of party, while the altercation between a majority of the Council and the Governor-General was carried on with very little temper or decency on either side, was inveigled to give evidence against Joseph Fowke, Francis Fowke, Maharaja Nanda Kumar, and Rai Radha Charan, on a charge of conspiracy against Warren Hastings, Esq. His evidence was so confused and contradictory, that the verdict was given in favour of the defendants.

Kamaladdin being deep in arrears to Government, these persons had interest enough, as it would seem, to instigate the officers in the revenue department against him. He was consequently imprisoned; but the Supreme Court espousing his cause, he was immediately released by habeas corpus. The very next day he was again imprisoned and again released in the same manner. He then sent to Hugli for his son to superintend his affairs, during transactions which so unavoidably engrossed and distracted his attention. In coming up the river to Calcutta, the youth was unfortunately drowned. This unexpected disaster, co-operating with his other embarrassments and sufferings, suddenly overwhelmed him with despair. He then became an object of pity and commiseration to all his friends and former acquaintance. And it was not long before he absconded, and has never been heard of since. I may note that this book is thoughtfully written and contains some account of the famine of 1770.

Mohan Prasad, the other principal witness in the forgery case, appears to have died in 1777, for there was a suit between Balgovind and Kissen Pooreah, Mohan Prasad's administratrix, in the fourth term of that year.

PROCEEDINGS IN THE FORGERY CASE.

Nanda Kumar was committed to jail on the forgery-charge on Saturday the 6th May. According to Price, Hastings did not hear of this till next morning, and then said that he was sorry that bail had been refused, and that it would be laid to him. Price specifies "next morning," in order to show that Hastings had nothing to do with the matter, but it at least shows that he got early information. He seems to have been then living at Alipore and as he was in the habit of retiring to rest early, he would probably not hear of a commitment which took place at about 10 P. M. on the Saturday, earlier than the Sunday morning.

I have already observed that the proceedings of 6th May were not published by the Judges. I have pointed out how suspicious this is, and I think that we have sufficient materials to prove that Mohan Prasad did not start the prosecution. He was a witness on the 6th, but I doubt if he was more, and I am glad to be able to relieve him in some measure of the infamy of instituting the proceedings.

The first piece of evidence which I have to offer on this head is a letter written to the Court of Directors by Lemaistre and Hyde on 2nd August 1775. There they say "no doubt of his (Nanda Kumar's) guilt remaining in the breast of either of us *upon the evidence on the part of the Crown*, a commitment in the usual form was made out." So also in the warrant of 6th May, Mohan Prasad is referred to as a witness, and not as a prosecutor. The words are "receive into your custody the body of Maharaja Nanda Kumar, herewith sent you, charged before us upon the oaths of Mohan Prasad, Kamaladdin Khan, and others, with feloniously uttering," etc.\* Price too tells us that it was the Company's lawyer who set the prosecution afloat. He says, "at this time a set of hungry wolves, of dastardly, selfish lawyers, had been let loose on the settlement, and they prowled about into every corner in quest of prey." Then he adds, "I am not quite certain how the truth came to light, but I have heard that a black writer, who had acted in the Mayor's Court, under the Register, Magee, gave a hint to the Company's lawyer in what part of the Register's Office the papers were to be found, and he flew with them to the sick nephew, Ganga Vishnu." The nephew, he says, was hurried on against his will to admit of the prosecution—"The papers were produced, the fact sworn to before one of the Judges, as acting Justice of the Peace for that day, and the Raja committed to the county gaol." Further on, he says, "the Company's lawyer had certainly a view to the obtaining a good sum of money from the Raja, on the

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\* It will be observed that there was at this time no charge of forgery.

idea that he should be able to quash the evidence—and it is not unlikely but he might have effected it had he only had Hindus to deal with, who are averse to the spilling of blood,\* and in particular that of a Brahman ; but he had snatched the prey out of competitors' hands who were as greedy and knowing as himself, and who, spirited up by the majority, joined against him in support of the Raja, and undertook his defence." Price also says that the Company's lawyer used to boast that he would save the Raja's life, if his counsel would consent to his paying the debt, and give him a handsome sum. The Company's lawyer here referred to can only be Mr. Hercules Durham, who afterwards conducted the prosecution. I would not rely much on Price's unsupported assertions, but we have evidence in the report of the trial that Durham had to do with the starting of the prosecution. He gave evidence and stated, (1094,) that he had the bonds (Exhibit, A and the two tips) in his possession three days *before* the commitment of the Raja. His evidence (1039) also shows that he took part in getting up the evidence, and in particular that he endeavoured to find out who had written the bond. He did this, he said, three days after the commitment. Durham was not only the Company's lawyer, to which post he was appointed in January or in February ; he was also the head of one of the Kachahris, for Manahar Mitra speaks of him as his master, and Durham speaks of sending for the Kachahri (books?) That he was to some extent an intimate of Hastings, appears from the latter's classing him along with Vansittart and Elliot. Writing to Graham and Maclean, on 29th April, he sends them the copies of the examinations in the conspiracy case, and adds "for Fowke's defence I have the joint recollection of George Vansittart, Durham and Elliot, added to my own."† This refers to Fowke's imprudent question to Barwell. His defence, as the report states, was not minuted. Sir J. Stephen asks (I, 183,) why was Driver the solicitor not cross-examined as to the origin of the prosecution ? The answer may now, I think, be given that it was not Driver who was the solicitor for the prosecution, it was Durham. Mohan Prasad's power of attorney, as I have already pointed out, was not drawn till 6th Māy, and apparently after the commitment. I should have thought too that if either Durham or Driver had been questioned on such a matter, they could have

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\* Compare this with Naba' Krishna's evidence and Ram Nath's statement, that Mohan Prasad said he could not desist on account of the English gentlemen.

† Durham was also one of the persons who made affidavits, (Elliot being the other) that it was a common belief in Calcutta that Clavering and others were resolved to rescue Nanda Kumar by force.

pleaded privilege. If the prosecution had been really a private one, Driver would, in all probability, have conducted the proceedings before the Judges on the 6th. But it is clear that he did not do so, from what Price says, and still more from the fact that the documents were not with him but with Durham. Driver had been solicitor in the civil suit, and naturally he would have appeared before the Judges, if the case had been brought by Ganga Vishnu or Mohan Prasad.

On the Monday after the commitment Nanda Kumar addressed the following remarkable letter to the Council. I have already quoted it in part but it ought to be given at length.

"After having been honoured with the confidence of the Nawab Jafar Ali Khan, so specially the friend of the English, after having discharged the first office in the Subah, after being now ten years retired from all public employment and having seen my son appointed to a distinguished post with this testimony, as I have been credibly informed, of the Governor's approbation of his father, that he instituted my son in the post with a view to his profiting from my experience and wisdom, I might startle the Honourable Board with an address from the common jail, had I not in a degree prepared them for some fatal change in my situation by a representation which I made in the month of March 1775, of the severe menaces that had been uttered against me by the Governor-General. When the first magistrate declares his determined intention of hurting an individual to the utmost of his power, the enemies of the man so marked for destruction will eagerly grasp at an opportunity for gratifying their malice, the dissolute and abandoned will find a sufficient inducement to prosecute him from the hopes of gratifying the resentment of the men in power, and if the unhappy man so devoted has by his upright conduct made the wicked his enemies, malice and wickedness may unite their endeavours to complete his ruin. To advance a step further, should the first man in the State countenance in public men known to be destitute of all moral principle, and as publicly known, to be the enemies of the person against whom he has denounced his resentment, should he treat a man of such principles with a degree of distinction far above his rank in life, should he admit him to private conferences with him, what is the wretched object of his resentment to expect, where shall he find an asylum when the whole body of the wicked and abandoned is let loose upon him? I mean not, however, to deprecate the Governor-General's resentment. The reason of the encouragement offered to my enemies, and the motives of the Governor-General's resentment against me will be sufficiently explained to the world by the representations I have already made in a former address to the Honourable Board.

Should my life be taken away by the flagitious charge now laid against me the facts before alluded to will remain upon record, the witnesses will be ready, and the proofs producible whenever the Governor General has courage sufficient to hear them.

A charge which has now been three years depending in a civil court without the witnesses upon whose evidence I have been committed having been once produced, or mentioned, has been laid against me by men who are marked by the public as the most turbulent and abandoned.

My only intention in setting forth the services I have done and the character I have to an advanced age supported, is to introduce my request that I may not suffer upon such a charge from the bare accusation, a punishment equal to that of death."

The Honourable President, I am well assured, is fully sensible of the fact



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I allude to; it may be requisite to explain to the rest of the honourable members of the Board that the institutions of our religion strictly enjoin a number of ablutions, prayers, and other ceremonies to be performed by the sect of Brahmans before they can take any kind of food. Nothing of this can be performed in the place where I am now; and could even these obstacles be surmounted, the place itself, as being inhabited by men of a different religion would prevent my receiving any sustenance without breaking through rules which I have hitherto religiously observed; I therefore humbly request that I may be permitted to reside under as strict a guard as may be judged requisite in some place where this objection may be obviated."

Nanda Kumar said nothing in this letter about his physical discomforts in jail, and probably they were not very great, for special arrangements were made for him. That, however, the Calcutta jail was a dreadful place may be seen from the evidence of Francis, Creassy, Hicky and Shakespeare. Impey put both Naylor and Swainston into this jail. Naylor was in bad health, and died a few months after his release.\* Francis deposed that he believed that Naylor's death was hastened, if not occasioned, by his confinement. The same witness said of Swainston.† "He was as strong and healthy a young man as any in the Company's service; he paid the witness a visit the day he came out of prison, but he was so much altered and reduced by his confinement that he did not at first recollect who he was."

Upon receipt of Nanda Kumar's letter Monson moved that the Sheriff and his deputy be requested to produce the warrant of commitment. On this Hastings said, "I object to the motion as I shall do to every interference of this Board with the authority of the Judges of the Supreme Court." Francis and Clavering agreed to the motion and so it was carried. The object of sending for the warrant was to see if it directed the Sheriff to imprison Nanda Kumar in the common jail. In fact, it did not, but Tolfrey put him there, and this was approved of by the Judges. Though the commitment had only been made by the Judges in their capacity of Justices of the Peace,‡ they became furious at the Sheriff's being sent for, and on 25th May Lemaistre and Hyde

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\* North Naylor was the Company's attorney. He was put into jail for not answering interrogatories. This was in the beginning of March 1780 and on the 5th idem his wife died. He was not let out till about the 16th. Swainston was, as well as Naylor, punished for his conduct in the Kasijora case. The sentence was, that he be imprisoned for three weeks, fined Rs. 200 and costs, and give security on Rs. 20,000 for his good behaviour for two years!

† He was Assistant at Midnapore.

‡ It may be worth pointing out that in this respect the Members of Council were on a par with Lemaistre and Hyde for by s. 38 of the Regulating Act the Members of Council had power to act as Justices of the Peace.

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wrote that if on the minutes of the *Board's* being made public, they should be found to contain any insinuation or reflection which might cast an imputation upon them. they would hold every individual member of the Board who joined in such defamation as personally liable to them to the utmost extent of the laws of England." I submit that such language as this justified the apprehensions of Monson and Francis, when Clavering proposed to produce the letter that Nanda Kumar had sent in August. It was probably with reference to it that Francis said that the Judges could have fined Clavering to the utmost extent of his goods (I quote the expression from memory). It is noteworthy that Hastings was present when Nanda Kumar's letter of 8th May was read, and that he did not repudiate its accusations.\* Ten days later he wrote to his agents, Graham and Maclean, that the old gentleman, Nanda Kumar, was in jail, and in a fair way to be hanged. Sir J. Stephen admits that this shows that Hastings was pleased at the prospect of Nanda Kumar's being put to death but he thinks that it is against the theory that he was then engaged in a conspiracy to murder him. He says that in that case Hastings would hardly have chuckled over the matter to his agents and that he should have expected him to avoid the topic (I, 75 note.) Now in the first place, Graham and Maclean were something more than Hastings' agents. He calls them in this letter his dear friends, and says he remains their, "sincerely affectionate and faithful servant." In the second place, he might write to them what he chose, for they were then on the high seas and would not get his letter for months, and long after the case had come to an end one way or other. It is important also to notice that in this very letter and in the chief part of it, *viz.*, the postscript, he retracted his intention of quitting the country and said he would wait the issue of his appeal. His reason for doing so is also remarkable; it is because he does not believe that men, whose actions are so frantic, will be permitted to remain in charge of so important a trust. The frantic actions referred to are described in the earlier part of the letter and have all to do with Nanda Kumar. They are, the visit to him when he was about to be prosecuted

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\* Sir J. Stephen's account of the Council's proceedings on Nanda Kumar's petition and of Impey's conduct, is not correct. He says that the Council examined the Sheriff as to the merits of the case, which they did not do, and he implies that Impey at once sent his own physician to attend Nanda Kumar. Now Impey did not do this till the 9th. On the 8th, he told the Sheriff that Nanda Kumar was not committed by him and that he had no power to interfere in the affair, there being felony expressly charged in the warrant. On the 9th he wrote to the Board about the opinions of the Pandits but showed no inclination to mitigate the rigour of the imprisonment and asked the Board to tell the Maharaja that if he wished to petition again he should do so immediately to the Judges.

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for conspiracy, the elevation of his son to the first office in the Nizamat, and the dismissal of Mani Begam. But the essential point in the reference to Nanda Kumar is, in my opinion, the indication that Hastings was cognizant of the evidence against Nanda Kumar, or at least that he had reason to believe that Impey would hang him. Unless he was so cognizant, he could hardly conclude, from the fact of his being committed, that he was in a fair way of being hanged. We know from Nanda Kumar that he had had private interviews with Mohan Prasad, and this and the fact that Impey was his sworn ally might justify his writing in this confident way. Sir J. Stephen asks how could Hastings or his friends tell that Nanda Kumar might not have documents clearly proving that the transaction was a genuine one, etc. But here we have Hastings believing that Nanda Kumar was likely to be hanged before a single witness had been examined for the defence. As to rushing prematurely into such a prosecution, no one ever said that he was the ostensible prosecutor. Granting that it failed, Hastings could always say that he was not the prosecutor. He could repudiate his agents, Kanta Babu, Kamaladdin, Mohan Prasad and the rest of them, just as he, on another occasion, repudiated Maclean.

The June Assizes began on the 3rd, but we have no record of what took place till the 8th, when Nanda Kumar was put up to plead. The whole of that day seems to have been taken up with deciding preliminary objections raised by Farrer, and it is characteristic of the report that it dismisses this most important part of the proceedings with a very few words. All we are told is that "the prisoner being called to the bar and arraigned, and the indictment read, his counsel tendered a plea to the jurisdiction of the Court; but the Chief Justice pointing out an objection thereto, which went both to the matter of fact and the law contained therein, and desiring the counsel to consider if he could amend it, and take time for so doing, he, after having considered the objection, thought proper to withdraw the plea; whereupon the prisoner pleaded not guilty."

This does not seem a fair account of what occurred. Farrer was examined before Touchet's Committee in 1781, as well as in 1788 in the proceedings for Impey's impeachment, and presumably his memory was better on the first occasion. He was asked then if he took advantage of questions concerning the inapplicability of a penal English statute to the case of Nanda Kumar, and he replied no doubt he did. He first prepared and put in a plea \* to the jurisdiction of the Court; *that* being overruled he afterwards contended that though the Judges

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\* Why is this written plea not published in the report?

might in strictness deem themselves competent to try him, yet that the English statute that made the offence upon which he was tried capital, could never be meant to extend to persons in his circumstances.

Being asked if that argument was admitted in favour of his client he said that the circumstances which were publicly known to have followed spoke the contrary, as he was condemned and executed.

Unfortunately, I have not been able, while writing this article, to see the evidence which Farrer gave in 1788. I have therefore to depend on Sir J. Stephen's abstract, and this is not satisfactory, as I observe that he adopts Farrer's evidence when it helps Impey, and rejects it when it is against him. He accepts it, for example, when Farrer says that evidence was given about Calcutta's being a seat of great commerce, though there is not a word of this in the report, but he rejects it when Farrer says that he withdrew his plea on being threatened with judgment against him, if it failed. Sir J. Stephen says that he cannot pretend to say what Lemaistre meant by shaking his head, and ignores the fact that this was not all that occurred. Lemaistre not only shook his head, but said "No, No" when Farrer urged that the accused in capital cases had a right to plead over, Farrer also said that the Court intimated further that they had no discretionary power to allow him to plead over. Sir J. Stephen admits that such a judgment would have been monstrous, and have justified almost anything that was said of the Court. But why does he refuse to believe that the Court did this monstrous thing? Is it likely that Farrer would otherwise have withdrawn a plea which, apart from the merits, as he told the Committee, was the principal thing upon which he depended? Sir J. Stephen says, "it would have been better to allow the plea to the jurisdiction, and to permit the prisoner to plead over to the felony, but I draw no special inference from the course taken by the Court, as it did not prevent a motion for arrest of judgment on the same ground." (I, 221.) This might lead the reader to suppose that the point was taken in the motion for arrest of judgment. But this is not the case, the only points then taken being paltry quibbles about dots, etc. Why did Farrer not take the plea in his motion for arrest of judgment? Clearly, I think, because it had been ruled against him, and evidence had been gone into on the understanding that it was abandoned. This being so, Farrer could not, without a breach of faith, or at least with any prospect of success, reopen the question. Farrer's plea on 8th June did not, according to Sir J. Stephen's abstract of it, take the point of the Statute's not being applicable to Calcutta. The point was taken by Chambers, but he was overruled by the

other judges. Sir J. Stephen's account of the matter implies that Chambers, and Farrer too, were convinced by evidence which was given about Calcutta's being a commercial city, and Farrer is quoted as saying that he was beat even in his own opinion on that ground. There seems, however, to be an anachronism here. The evidence to which Farrer referred was evidence given during the trial, (Stephen I, 224) whereas the discussion with Chambers took place before the trial began. Farrer speaks distinctly of witnesses examined during the trial and of statements by one or two of the jury. He names four witnesses, Hazari Mal, Kashi Nath, Naba Krishna and Khwaja Petrusc. All these persons were examined during the trial, but so far as the report goes, they said nothing about the commerce of Calcutta. Sir J. Stephen is therefore in this dilemma, that either Farrer's recollection was mistaken, or the published report is grossly inaccurate. It is also noteworthy that Impey did not take this defence in the House of Commons. He said nothing about witnesses deposing to the commerce of Calcutta. I am therefore of opinion that Farrer was mistaken, as was not unlikely to be the case, when he was giving evidence after so many years.

Impey said in reply to Chambers that he had always conceived India, and particularly Calcutta, to be greatly commercial, and Sir J. Stephen follows him, and says that he does not see why the Statute 2, Geo. II, was less applicable to Calcutta, than to London. I suppose, then, that Sir J. Stephen is prepared to assert that Calcutta in 1770 was more commercial than any town in Scotland or America, to neither of which places had the Statute, so far as I am aware, been extended.\* It must be remembered that it is not the state of things in 1775 that we have to consider. The bond purported to have been executed in 1765, and it certainly was not executed later than January 1770. 1770 was the year of the famine, in which about one-third of the inhabitants of Bengal died of hunger. This does not say much for India's commerce. In the following year the Court of Directors wrote : "On comparing the once flourishing state of the commerce of Bengal with the gradual decline it has undergone for several years past, it gives us the greatest concern that so unhappy a change should have occurred under our Government." (letter of 10th April 1771, quoted in Bolst 3, App. A., 250.) In 1770 Calcutta was at most only the second town in Bengal. Murshidabad was the capital and was known

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\* Scotland was expressly excluded from the operation of the Statute. The words used to denote the punishment for forgery were surely enough to show that the Act was intended only for England. They were : "shall suffer death as a felon without benefit of clergy."

by the name of "the City." The courts were there, and it was there that the *punya* was held. It was not till 1772-73 that a change was made by bringing the courts down to Calcutta. Hastings wrote in October 1772, that by these arrangements the whole power and government of the province would centre in Calcutta, and that it might now be considered as the capital of Bengal. He exults in thinking, (Gleig, I, 285) that the changes will one day make Calcutta the first city of Asia, and many years afterwards he applied to himself the boast of Augustus, "*Urben lateritiam recepi, marmoream reliqui.*" This might be true, for in India everything follows the Government, and towns sometimes spring up more rapidly than they do in Australia or America, and it was unjust to overlook this fact and to judge Nanda Kumar according to the state of Calcutta in 1775, and not according to its state in 1765 or 1770.

Sir Elijah Impey himself gave testimony against the populousness or prosperity of Calcutta in 1770, and unconsciously demolished the defence which Sir J. Stephen now makes for him. The way he justified himself was, that English law was in force in Calcutta, and that if the natives did not like it they should not have come there. His words are: "it was not till since the seat of Government, and the collection of the revenues have been brought to Calcutta, that it has become populous, by the influx of black inhabitants. The laws have not been obtruded on them, they have come to the laws of England." This is what he said at his impeachment, and I am not aware that he made any reference to Hazari Mal or Kashi Nath. Impey represented Chambers as having acquiesced in his view about the applicability of the statute, but Mr. Belchambers' note (p. 1.) shows that Chambers adhered to his former opinion eleven years afterwards. In 1786 when a native was charged under 2, Geo. II, c. 25, s. 2, Chambers was of opinion, that the statute did not extend to Bengal. Hyde thought it did, and Sir William Jones doubted, but agreed that the case should proceed. Here again we find Chambers overruled, but not waiving his opinion. Two years later in Martin Shabin's case, Chambers seems to have brought Jones round to his opinion.

Sir J. Stephen describes Sir William Jones as only doubting if 2 Geo. II. C. 25 extended to India, and he seems to think that the earliest authority for the doctrine about the introduction of the English statute law in 1726, as Sir Edward East's paper of 1825.

The following extract, however, from Sir William Jones' charge to the Grand Jury on 4th December 1788, shows that that judge became convinced that the statute did not extend to India, and that he grounded this partly on the Charter of 1726.

He says: "The Armenian whom I mentioned under the head

of perjury being also charged with having forged the bond, to the due execution of which he positively swore after strong and repeated warnings by an interpreter of his own nation, the great question again\* arises whether the modern statute, which makes forgery capital, extends or not to those Indian territories."

"On the fullest consideration, I think the negative supported by stronger reasons than the affirmative; the statute in question seems to have been made on the spur of the times. Its principal object was to support the paper-credit of England, which had just before been affected by forgeries of bank-notes, and it contains expressions which seem to indicate a local operation. The punishments which it enforces are beyond the laws of nations, and the British laws appear to have been introduced into India by a charter preceding the statute, so far, at least, as to bring this country within the general rule.

"Nevertheless, I still think the question debateable. I see it as I lately told the senior Judge (Chambers) who agrees with me, rather with the light of the rising than with that of the meridian sun; and the learned argument of the Judge (Hyde) who differs from us, has rendered the point still doubtful. It makes me wish for a decision of it by the highest authority at the fountain-head of justice. Yet the reasons arrayed on the opposite side so far turned the scale as to justify me in recommending an indictment on the statute of Elizabeth, especially as a conviction on the modern statute would not, at present, be followed by execution." Jones' Works 3, pp. 32-33.)

The Armenian here referred to must be Martirus Shabin† who according to Mr. Belchambers' note was convicted on 11th January 1789, under the statute of Elizabeth, of publishing a forged document. Sir James Stephen says "of the reasons for the judgment given no record remains," but here we have them in Sir William Jones' charge! I do not see how it shows anything against Chambers. It was Jones who changed his opinion.

One of the points urged at the impeachment of Impey was that Nanda Kumar was not a voluntary inhabitant of Calcutta when the forgery was committed, but was only there as a prisoner. Sir J. Stephen says that the assertion was altogether unfounded, and yet his own documents corroborate it, for the so-called "life of Nanda Kumar" mentions that Nanda

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\* Alluding to the case of 1786.

† This case is mentioned in Seton-Karr's *Selections from Calcutta Gazette*, p. 278. The accused is there called Mutthuss Shawun. The offence was committed against Mrs. Dustagn, the widow of Mr. Petruse, (Khawaja Petruse the witness?) Apparently it was tried in December 1788. The case in 1786 did not perhaps necessarily raise the question of the applicability of 2 Geo. II., c. 25, for the charge was not capital even under it.

Kumar was sent under a guard to Calcutta after the accession of Najain-ad-daula. This was in February or March 1765, and the author of the Sair tells us that when Lord Clive came out later in the year, he refused to re-instate Nanda Kumar in the diwanship, and *ordered him not to go out of Calcutta*. If, then, the forgery be taken to have been committed on the day mentioned in the bond, 20th August 1765, I think that it is tolerably clear that Nanda Kumar was not a voluntary inhabitant of Calcutta at the date of his offence.\*

It deserves to be noted that according to Farrer and the report of the trial, it was the Chief Justice who immediately gave a decided opinion both as to the matter of fact and of law contained in the plea. This does not look like the act of a prudent and wary judge, for unquestionably the point was arguable, and not to be lightly disposed of. The point that the misdemeanour merged in the felony, and that, therefore, the Act of Elizabeth was not applicable, does not seem to have been taken at the time by Impey. Sir J. Stephen holds that it was the correct view, but Chambers and Jones, JJ., seem to have been of a different opinion, and I was under the impression that no English statute became obsolete by lapse of

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\* In the indictment in the forgery and conspiracy cases Nanda Kumar is described as late an inhabitant of the town of Calcutta. Does this mean that he was not so formerly? Nanda Kumar was often under arrest. Mr. Long publishes a petition of his dated March 1763 in which he complains that he has been in confinement for several months. He was released during the war with Mir Qasim and accompanied Mir Jafar to the army, but when Mir Jafar died he again got into trouble. The author of the Sair says that Vansittart had a very bad opinion of Nanda Kumar, and wrote all his delinquencies in a book, and told his brother George, known as Hushiar Jung, to read it to Clive upon his arrival. The younger Vansittart did so, and the effect was that though Clive had been disposed to favour Nanda Kumar, he now turned against him, and would not make him Diwan. It is possible that Naba Krishna had some hand in this disgrace of Nanda Kumar, for we are told, that in 1767 Nanda Kumar revenged himself by getting up a charge of rape against Naba Krishna. The case failed and Nanda Kumar was threatened with being made over to the country government, a fact which shows that the Council did not consider him subject to the Calcutta Courts. (Bolst, 3 App A. 155.)

I may here notice that Lord Macaulay and Sir J. Stephen seem to be wrong in ascribing the enmity of Gholam Husein towards Nanda Kumar to the fact that the latter had helped to bring down Mahomed Raza Khan. The author of the Sair was no admirer of Mahomed Raza and says many things against him. His dislike of Nanda Kumar was more probably due to his dislike of his master, Mir Jafar. Gholam Husein had attached himself to the party of Mir Qasim and he complains bitterly of Mir Jafar's treatment of Mir Qasim's friends. It is likely, too, that Gholam Husein was prejudiced against Nanda Kumar by his friend, George Vansittart. The so called "life of Nanda Kumar" was certainly written by a native, and I should not be surprised if Gholam Husein had something to do with it.



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time, or implication, but was alway in force until expressly repealed.

A good deal has been said by the defenders of Impey, and among them, by Sir J. Stephen, of the case of Radha Charan Mitra,<sup>\*</sup> and it is therefore necessary to examine it a little. Radha Charan Mitra was convicted of forgery at the Calcutta Court of Quarter Sessions, and sentenced to death. The forgery consisted in the fabrication of a codicil to the will of an Armenian named Khwaja Solomon. In the following month the natives of Calcutta, etc., petitioned Mr. Spencer, the Governor, against the sentence, and the result was that Radha Charan was respited and eventually pardoned. The trial had taken place before three of the Company's servants, Pleydell, Biddett and Gray, who were, of course, not lawyers, and whose decision Impey would have paid very little respect to, if it had not happened to support him.

The petition of the inhabitants is given in Verelst, and also in Mr. Long's selections, the first words of the second paragraph are "Your petitioners, therefore, beg leave to set forth the general consternation, astonishment, and even panic, with which the natives of all parts, under the domination of the English, are seized at the example of Radha Charan Mitra: they find themselves subject to the pains and penalties of laws to which they are utter strangers, and are liable through ignorance unwillingly to incur them; as they are in no ways interested in those laws they cannot tell when they transgress them, many things being, it seems, capital by the English laws which are only finable by the laws of your petitioner's forefathers, to which they have hitherto been bred, lived, and been governed, and that till very lately, under the English flag." It seems also from the same petition that the jury recommended the prisoner to mercy.

It is important to notice that Radha Charan's offence was committed against an Armenian.\* This was of itself enough to distinguish it from Nanda Kumar's case. For the purposes of jurisdiction Armenians were looked upon as Europeans. They had no law of their own, and they have always been treated as subject to English law. For instance, in 1881, the Calcutta High Court found that an Armenian wife was entitled to dower under the English common law (I. L. R., VI., Cal. 794.)

Armenians were not regarded by the Indian Government as natives of India, and it was on this account that in May

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\* It appears from a letter from Najam ad-daula to the President (Long's Selections, p. 416) that Khwaja Solomon was a native of Constantinople. Impey in his defence, before the House of Commons said that in Radha Charan's case an Armenian had been prosecutor.

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1768, the Calcutta Council decided that Armenians could not be allowed to trade in the interior. They wrote (Bolst III, App. E. 404.) that only natives of the country should in future, enjoy the privilege, and that Armenians, Portuguese and their descendants were excluded. Verelst's book\* was published in 1772, and it is scarcely conceivable that Impey could not have seen it. At least Hastings must have been well acquainted with it, for Verelst was one of his predecessors, having been governor from 1766 to 1769. One of his chapters is entitled "The impossibility of introducing English laws into Bengal," and he gives this case of Radha Charan as one instance of the absurdity of applying English laws. He says (p. 141) "the amazing extent of public and private credit in Great Britain has induced our legislators to punish forgery with death. Under this law a native of Bengal was condemned in the year 1765. But so extravagant did the sentence appear, where experience had never suggested the principle : such the disproportion in their eyes between the punishment and crime, that the principal inhabitants of Calcutta expressed their astonishment and alarm in a petition to the Governor and Council ; and upon a proper representation Radha Charan Mitra received a pardon." \* Verelst prints the petition in his appendix (p. 177) and it may also be read in Mr. Long's Selections (p. 430) where it appears with copies of the ninety-five signatures. Impey had the effrontery to say that the natives did not complain of the law, but only of their ignorance of it, and that the whole passed in the ordinary course of business, and accorded with all the other proceedings of the Court. Even if this last statement were correct, it would not authorize the inference that the Court of quarter sessions claimed full jurisdiction over natives. In March 1767, that is, two years after Radha Charan's case, the justices were, upon deliberation, unanimously of opinion, that a criminal charge between natives, only, did not belong to the jurisdiction of the sessions (Verelst, p. 26). Acting on this view they declined to hear the complaint of Gokal Sonar, who had charged Naba Krishna with abducting and violating his sister, and referred the complainant to the Court of the zamindar. This was a case in which both parties were natives, and therefore it does not conflict with the decision in Radha Charan's case.

During the debates on Impey's impeachment Colonel Fullerton quoted a firman of 1764, in which the Company were enjoined to decide causes "agrecably to the rules of Mahomet

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\* I am indebted to the Home Office, Calcutta, for an extract from the Court of Directors' dispatch. The language is a little stronger than as quoted by Impey and Sir J. Stephen for the Directors say "we are very glad you have interferred in his behalf."

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and the laws of our empire." (Parliamentary History 27, p. 471.) Sir J. Stephen says that the firman is not to be found in Aitchison's treaties, and he appears to doubt its existence. It would have been strange if Mr. Aitchison had omitted it, for the firman is an important one, and was published both by Bolst and Verelst. It is, however, in Aitchison (vol. 2, p. 6) being omitted from the first vol. as it does not relate to Bengal. It is dated 29th December 1764, and is the deed whereby the Company obtained Ghazipur and the rest of the zamindari of Raja Balwant Singh.

As regards the question of the applicability of 2 Geo. II., C. 25. It is now settled law that the judges were mistaken in thinking that the Act was in force in Calcutta. It was passed in 1729 and it has been long admitted that no English statute passed after 1726—the year in which the charter for the Mayor's Court was granted—is in force in India unless specially extended thereto. (See Mr. Whitley Stokes' preface to his collection of Statutes relating to India.) No doubt this is a mistake into which the judges might fall in good faith, but it is a curious Nemesis that when these English lawyers thought they were applying *summum jus*, they were technically, as well as substantially, wrong. Sir J. Stephen endeavours to controvert the view taken by the Indian Courts, but I do not suppose that his authority will be considered superior to that of Sir W. Jones, Sir E. East, and many others. One curious remark he makes is, that if no statute passed after 1726 be *ipso facto* in force in India, then all indictments should have been in Latin, for the statute requiring them to be in English was not passed till 1730. And he says, that the effect of this would have been that the doors of the Court would have been practically closed on the criminal side. Now, in the first place, the terms of the charter were, I think, wide enough to allow the substitution of English, and in the second place, supposing that the provision of the common law did apply, how did it close the doors of the Courts? What did it matter to Mohan Prasad or Nanda Kumar, or to the natives generally of those days, whether the indictments were in English or in Latin? Both languages were equally unintelligible to them.\*

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\* Though Impey and Sir J. Stephen have said much about the charters of 1726 and 1753, it does not seem that they were the ground on which the judges decided in 1775 that Nanda Kumar was subject to the jurisdiction. What they held was that he was a British subject in consequence of his being an inhabitant of Calcutta, and that this rested on the fact of conquest. In 1782, Hyde, J., said "we say, the inhabitants of this town are all British subjects, because this town was conquered by Admiral Watson and Colonel Clive; but that does not extend to subordinate factories." Chambers, J., concurred. Russell, C., J., in his

The report tells us nothing about the Grand jury, but Captain Price says that it was composed of twenty-three jurymen chosen out of forty-eight gentlemen of unblemished character. One of these gentlemen of unblemished character was Price himself, and his gentlemanliness and character may be judged of by his writings, and by his ship-contracts. (Francis' *Memoirs* II, 133, 134.) According to him, the Grand Jury unanimously found a true bill.

The indictment consisted of twenty counts, and in each of them the bond was recited, so that the paper was of great length. The reason why the indictment had so many counts was because the drawer could not make up his mind as to whether the document was a bond or a writing obligatory, or a promissory note, or whether Ballaki Das was alive or dead in January 1770. The indictment contained the averment that the offence was committed after 29th June 1729, so as to bring it under the Statute of Geo. II., which came into force after that day. Sir J. Stephen is angry with me for saying that the indictment was drawn by Lemaistre, but his quotation from Tolfrey's evidence shows, that when the latter was questioned on the assumption that he had acknowledged having seen a copy in Lemaistre's handwriting, he did not object or say that the question was unfair. Tolfrey was a lawyer, and not a timid or ignorant witness, and would surely have objected to the question, if he thought it unfair.

Sir J. Stephen's remark that the report to which Tolfrey referred might have been a report in London in 1788, is, I humbly think, a very preposterous one. Tolfrey saw the paper in Calcutta in 1775, and his words imply that he had heard of the report before he saw it.

Of course, Lemaistre may have copied out the indictment without his having himself drawn it. I should have thought that there was nothing very extraordinary in Lemaistre's drawing up the indictment, for he was the committing magistrate and the prosecution was being conducted by a Government official, Mr. Durham.\* It is evident that Lemaistre took a great

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judgment in the case of the goods of Bibi Metra, in 1832, speaks of the original four judges of the Court holding that all Hindus and Mahomedan inhabitants of Calcutta are British subjects, and remarks that the reasons upon which this view is rejected by Mr. Justice Ryan are such as would induce any lawyer to pause, at least, before coming to the conclusion that such a ground of jurisdiction is sustainable: "Clarke's Notes, quoted by Thornton. p. 160."

This being the view that the judges took, I ask why did not Impey accede to Nanda Kumar's request that he should be tried by his peers or at least why did he not direct that there should be Hindu inhabitants of Calcutta, on the Jury?

\* Sir J. S. thinks that the clerk could have drawn up the charge, but apparently he was not well skilled in his duties, for Impey wrote that

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deal of interest in the case, for according to Sir J. Stephen he made himself much more prominent than Impey, cross-examining the witnesses for the defence. Sir J. Stephen accounts for this by saying that Lemaistre was the committing magistrate, though I should have thought that this would have made him keep in the background, especially as he had already decided that Nanda Kumar was guilty. However, the point of who drew the indictment is, after all, not one of great importance.

When the indictment had been read and Nanda Kumar's plea to the jurisdiction overruled, he was asked by whom he would be tried, and answered: "By God and his peers." The Court asked, who the Maharaja considered as his peers, and his counsel said, he must leave that to the Court. Impey then said that he could only be tried by British subjects. It does not appear from the report that Nanda Kumar or his counsel claimed that he should be tried by a jury of his countrymen, though probably this was implied by his demand that the jury should be of equal rank with himself, for this required that they should be Brahmans. But it is curious that no discussion seems to have taken place as to the meaning of the phrase "British subjects."\* But the term "British subject" is by no means free from ambiguity, as Mayne, in his Commentaries on the Indian Penal Code, has shown.

Sir J. Stephen, too, when seeking to vindicate the Supreme Court from the charge of usurping jurisdiction over the natives of India, points out the ambiguity of the phrase. He says, "in one sense the whole population of Bengal, Bihar, and Orissa were British subjects. In another sense no one was a British subject who was not an Englishman born. In a third sense inhabitants of Calcutta might be regarded as British subjects, although the general population of Bengal was not." In another place he points out that the words of the charter, subjects of Great Britain, might exclude Irishmen. It is difficult to believe that if the Regulating Act or the Charter intended that the Supreme Court should have jurisdiction over all the inhabitants of Calcutta, it was not also intended that natives should be tried by their own countrymen. When Sir J. Stephen asks me if there are no fair trials in British India now-a-days, (I, 185. note) he knows perfectly well that no such trial as that

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the witnesses for the defence could not be prosecuted to conviction partly on account of want of skill in drawing up the indictments. If I am wrong about Tolfrey's evidence, I am so in good company, for both G. Elliot and Pitt (who voted in favour of Impey) give the same account of his evidence as I have done.

\* Section 34 of the Regulating Act directed that all offences should be tried in the Supreme Court by a jury of British subjects resident in the town of Calcutta, and not otherwise. Thus, I presume, controls the slightly different expression "subjects of Great Britain" used in the Charter.

of Nanda Kumar can now take place. Natives are now tried by mixed juries or by judges who know the language, who are assisted by native assessors, and whose decisions are appealable. Impey defended himself for hanging Nanda Kumar by referring to the practice of the Calcutta Court of Quarter Sessions, as instanced in the case of Radha Charan Mitra. It is a pity that he did not think of adopting another practice of that Court, which was, to try natives by juries composed half of natives and half of Europeans. Bolts tells us, (II, 167) that this practice was introduced by Vansittart.

Though Nanda Kumar was, perhaps, not regarded as an alien,\* yet surely the principle of the *de medietate lingua* statute, if there was one in force then, was applicable, and he should have been allowed some jurymen who were of his own country. At his trial the judges, the majority of the jury, and his counsel were foreigners, unacquainted with the language of the witnesses, and he himself was ignorant of the language of the Court. The very interpreter was a youth who was not a native, or even the authorised interpreter of the Court† We are told that he was a great linguist, but he had passed no examinations as far as we know, and it does not appear that he had any knowledge either of Bengali or of Nagari; he knew some Persian and Hindustani, but the report which he edited, shows that he was not a scholar.‡

Was a trial so conducted, and in which two of the presiding judges had already made up their minds, entitled to be called a fair trial?

All four judges were present, but Lemaistre and Hyde had prejudged the case, for on the 6th May no doubt of Nanda Kumar's guilt remained in their breasts. The violence of Lemaistre's deportment was notorious. His name was Stephen Caesar Lemaistre, and all he did was in Cambyse's vein. When Nanda Kumar was dying for want of food, he, alone of the judges objected to mitigate the rigour of his\* imprisonment,§ and he was specially prominent in declaring that it

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\* He was born at Bhadrapur, in Murshidabad (now included in Birbhum) long before the battle of Plassey, and the grant of the diwani. He therefore was an alien by birth, and it does not appear that he was ever naturalized.

† It appears from his brother's speech that he was only 17 when he went out to India, and that this was after Hastings had arrived in Bengal. Elliot therefore could not have been more than twenty at the time of Nanda Kumar's trial! Chambers, the official interpreter was related to Sir Robert (Bengal Obituary, p. 71), so possibly Hastings and Impey were glad of his absence.

‡ See Richardson's Persian dictionary, p. 77, about Elliot's ignorance of the origin of the words *tamasuk* and *khat*.

§ Yeandle's affidavit. In 1778 Lemaistre caused a panic by letting loose upon Calcutta 60 to 70 convicts. See evidence of Mr. Mill, the Superintendent of Police, and the Report on Touchet's petition.

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Nanda Kumar's plea to the jurisdiction were overruled, a verdict of guilty would follow. As Mr. Farrer deposed, "the Court cut me short, and the prisoner was called upon peremptorily to plead, Mr. Justice Lemaistre, to the best of my recollection, adding, under the pain of being considered as standing mute."

Even Sir J. Stephen admits that Lemaistre was narrow-minded, arrogant and violent, and that little is to be said in favour of Hyde. They afterwards quarrelled with Impey, and then he wrote to Thurlow: "I have every day more reason to be concerned at my having assisted in getting Hyde and Lemaistre appointed judges. Hyde, in whom the seeds of the disorder which he had a little before he left England still remain, and Lemaistre, are violent beyond all measure." I take this quotation from Sir John Kaye's article. He mentions that Impey elsewhere states that his possession of the casting vote was a thorn in the side of his colleagues. In another letter, quoted by Sir J. Stephen, Impey writes that "Hyde is absolutely under the management of Lemaistre, who I fear thinks he shall please Lord Sandwich, whom he thinks his patron, by opposing the Company." We may gather from the above that Hyde had once been out of his mind, and that for a time both he and Lemaistre would be disposed to be subservient to Impey, as he had helped in procuring them their appointments. Chambers was for trying Nanda Kumar under the Statute of Queen Elizabeth, and if Impey had joined with him, his casting vote would have overruled the two other judges and Nanda Kumar's life would have been saved.

The jury who tried Nanda Kumar were obscure men,\* and the only two of whom anything is known are Robinson, the foreman, and Weston. The jurymen, Samuel Touchet, was probably not the Touchet who petitioned against the Supreme Court, for the latter is called John Touchet in the Report of the Committee.† Robinson's character and abilities may be

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\* Probably the obscurity of the jury was partly owing to the leading inhabitants getting excused on the ground of their being officials whose attendance would be inconvenient to Government. According to Impey (1058) several got off on this ground who afterwards admitted that they had little or no excuse to offer, but thought that when they saw others excused, they might put in their claim. Another reason for the petit jurymen being men of low rank was, that persons of superior station were absorbed in the grand jury. When grand juries were abolished, one of the reasons given (I think by Sir Henry Maine) was that the measure set free for petit juries the excellent material now locked up in the grand jury lists. The number of educated Englishmen in Calcutta in 1775 must have been very small.

† Touchet, in 1776,\* was Bakshi, or paymaster, to the Hospital. John Touchet was, I think, an assistant of the Committee of Revenue. Francis seems to be referring to John Touchet when he speaks of a Touchet as agent to Ducarel, (II, 215).

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estimated from his correspondence with Farrer; and I think it does not say much for the other jurymen that they elected such a man their foreman. Probably he owed the distinction to his having been Mayor of Calcutta in 1771 (Bolts, III, appendix 1, 631).<sup>\*</sup> According to Price, Robinson was a private friend of Hastings, and became bankrupt a few years after the trial. Weston was the son of the Recorder of the Mayor's Court, and was born in Calcutta in 1731. He was originally a servant of Mr. Holwell, and was a Eurasian, as appears from a statement by the Rev. Mr. Long, and also from a notice in the Bengal Obituary, which speaks of him as an instance that "chaste and refined sentiments are not confined to complexion or climate." Some others of the jurors were probably also half castes; at all events some were country-born, for Impey says so in his charge. The jury was therefore hardly entitled to be called an English or a British jury. It was rather what used to be called a Cossitollah jury. This reminds us of the famous statement of Sir Ashley Eden, when giving evidence before the Indigo Commission. When asked how he would himself like to be tried, he replied that, if innocent, he would sooner be tried in the local Sessions Court, with an appeal to the Nizamat, and if guilty, by the Supreme Court and a Calcutta jury. This was in 1860, but it would seem that the spirit of Lemaistre and Hyde was still hovering about the Supreme Court, for Sir Mordaunt Wells actually wanted to have Mr. Eden called to account for the above remark.<sup>†</sup>

Nanda Kumar was defended by Messrs. Farrer and Brix, and

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<sup>\*</sup> Price's reference to Robinson occurs at page 75 of one of his "Letters of a Free Merchant," and is quoted by Sir J. Kaye in his article on Sir Philip Francis. Robinson was part owner of the "Ashburnham" for the job about which see Debrett's Authentic Copy of Correspondence," vol. I. The majority, in their minute of 15th September 1775, state that Robinson, like Phydell, was dismissed the Company's service. In the same passage Price speaks of Belli, who sent the correspondence between Robinson and Farrer to Impey, as another bankrupt friend of Hastings. Price seems to have been present throughout the trial, and according to him it was Robinson who questioned Yar Mahomed, and led to his being told to begin his evidence over again. We are told (1030) that the foreman of the grand jury, who had been one of the Aldermen and filled the office of Mayor, desired that the records of the Mayor's Court might be produced. Possibly the word *grand* here is a mistake, for Robinson had been the Mayor, and surely the grand jury would not interfere after the prisoner had been made over to the *petit* jury. It would seem, however, from the address of the grand jury to Sir Elijah, that they remained in attendance throughout the Session.

<sup>†</sup> Nanda Kumar challenged eighteen jurymen. I can only identify two of these—Richard Johnson, who is said to have arranged Mrs. Imhoff's divorce, and Bernard Messiaek, the Sir Barnaby Ruzzle of Hickey's Gazette.



Mr. Impey, with his usual recklessness, calls them two English barristers of eminent ability and repute. In this he has been followed by Kaye, though he more cautiously terms them two of the most eminent English lawyers in the settlement. In fact Brix was neither an Englishman nor a barrister. He was a Dane, who had been secretary to Mr. Cazenove, the Governor of Serampore, and was (according to Bolts for informing against him, Bolts) made an attorney of the Mayor's Court, (Bolts II, 78.) Whether Farrer was a barrister or not I do not know. Impey described him as having come out to India under the name of secretary to Colonel Monson, and, as having been admitted an advocate at the desire of Monson.\* This would seem to imply that he did not come out a barrister, and this agrees with Sir J. Stephen's statement that he has not been able to find any record of Farrer's having been called to the bar. Perhaps, if a search were made for one or two years after Farrer's return from India, his name might be found, as Price says, somewhere, that he passed as a lawyer after his return.

Farrer is not mentioned by Macrabié among the list of passengers by the *Ashburnham*, so that if he came out with Monson, he was probably in the second mess. Price, in his coarse way, says that Farrer came out so poor that he was glad to become a dog-keeper, (whipper-in?) to a gentleman in the settlement for eighty rupees a month. The point is important because it affects the question of Farrer's independence. If he was not a barrister, and was wholly dependent on the Chief Justice for his position, he would naturally be very chary of offending him, and we, in fact, see that he had not the courage to do his duty to his client. When Nanda Kumar complained to him about the treatment of his witnesses, he shuffled, and to use his own words, avoided giving him a direct answer. Whatever were his abilities and zeal for his client, he could do little for him, as he knew nothing of the native language, and could only communicate with Nanda Kumar through an interpreter. After the jury was sworn the following scene took place between the Chief Justice and him:—

"THE COUNSEL FOR THE PRISONER" . . . . . "objected to the interpretation of Mr. Elliot, as being connected with persons whom the prisoner considered as his enemies."

CHIEF-JUSTICE.—"The principal interpreter of the Court is absent; the gentlemen of the jury have heard the interpretation of the assistant interpreters on other occasions. Do you, gentlemen, think we shall be able to go through this cause,

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\* Smoult's collection of orders shows that Farrer was admitted an advocate of the Supreme Court on 22nd October 1774.

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with the assistance of those interpreters only?" JURY.—"We are sure we shall not be able." CHIEF JUSTICE.—"It is a cruel insinuation against the character of Mr. Elliot. His youth, just rising into life, his family, his known abilities and honour, should have protected him from it." Mr. Elliot desired he might decline interpreting. CHIEF JUSTICE.—"We must insist upon it that you interpret; you should be above giving way to the imputation; your skill in the languages, and your candour will show how little ground there is for it." MR. FARRER.—"I hope Mr. Elliot does not think the objection came from me; it was suggested to me. CHIEF JUSTICE.—"Who suggested it?" MR. FARRER.—"I am not authorised to name the person." CHIEF JUSTICE.—"It was improper to be made, especially as the person who suggested does not authorise you to avow it." JURY.—"We all desire that Mr. Elliot, whose character and abilities we all know, would be so kind as to interpret." MR. FARRER.—"I desire on the part of the prisoner that Mr. Elliot would interpret."

I submit that we have here a clear indication that Nanda Kumar looked upon Hastings as his prosecutor, and I cannot understand how Sir James Stephen, after reading this passage could write that from first to last Farrer neither suggested, either directly or by a single question in cross-examination, that the accusation against Nanda Kumar was a malicious prosecution got up to silence the accuser of Hastings (I, 182.) Elliot's intimacy with Hastings was well-known, and it was for this very reason that he declined interpreting for General Clavering. He was equally intimate with Sir Elijah Impey, whose son tells us that Elliot had been living at their house in Calcutta, as a member of the family, being treated by Sir Elijah as a son or a younger brother. He was equally dear, he adds, to Warren Hastings. When Elliot went home in August, taking with him the report of the trial, and no doubt with a commission to defend Hastings and the judges, Hancock gave him a letter of introduction to his wife, and in it he says, "Pray treat this gentleman with the greatest civility, he is the friend of our great friend"

The only possible reason Nanda Kumar could have had for objecting to Elliot's interpretation was his intimacy with Hastings, and perhaps with Impey.\* I submit also, that Impey's manner on this occasion, was bad, and that he showed, in no equivocal manner, how he would be likely to treat questions tending to connect Hastings with the prosecution. After his remark about cruel insinuations, we need not be surprised

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\* Impey said in his defence before the House of Commons that Elliot lived in that intimacy with him that he might almost say he made part of his family, and that no secret of his heart was unrevealed to him.

that Farrer did not offend again. In spite of the above extract from the report, Impey had the effrontery to state before the House of Commons, that Elliot served voluntarily as an interpreter. Poor Elliot could not well continue to decline when one so much older than himself, and one in the position of his host, told him that he must insist on his interpreting, and that he should be above giving way to the imputation. With regard to Sir James Stephen's remark, that no questions were asked during the trial about Nanda Kumar's having accused Hastings of corruption, I have to point out, in addition to what I have just said, that an attempt seems to have been made to get in such questions in the course of the conspiracy trials, and that it was rejected by the Court. I refer to the cross-examination of Francis Fowke. He was asked if Nanda Kumar was employed by his father in investigating any sources of corruption in this country? He answered he did not know; and then we have the note, "The judges here put a stop to any further questions of the above nature." The report does not say whether the defence or the prosecution was cross-examining this witness.

The witnesses for the Crown, excluding mere formal witnesses, were eight in number, *viz.*, Kamaladdin and his servant, Husein Ali, Khwaja Petrusc,\* Sadaraddin, Mohan Prasad, Naba Krishna, Sabut (?) Pathak and Kista Jiban Das. The principal exhibits were the jewels-bond (Ex. A.) Ballaki's power of attorney, his will, and the probate thereof, Nanda Kumar's receipt for the money (Ex. F.) and papers in Silavat's handwriting (Ex. G.)

The main document in the case was the jewels-bond, Exhibit A. This purported to bear the seal of Ballaki Das, and to be attested by three witnesses, Madhab (?) Rai, Silavat and Kamal Mahomed; this last is the witness spoken of by Sir J. Stephen as Abdehoo Commaul Mahomed, but the first word is no part of the name but the prefix, meaning *slave* (of God) which is often put by Mahomedans before their names (see Wilson, (Abd) and Elliot's explanation 984.) The case for the defence was that all three witnesses were dead. The case for the prosecution was, that Silavat was dead, that there was no such person as Madhab Rai, and that Kamal Mahomed was in fact Kamaladdin. Kamaladdin was thus by far the most important witness in the case. Silavat had signed his name and profession, Madhab and Kamal Mahomed had put their seals, but according to Chaitanya Nath both had also written something above their seals. Kamaladdin's story was that his name used to be Mahomed Kamal, and that the impression on the bond was that of his

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\* Called also Aga Bedross by the natives.

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seal, but that he had not affixed it. He also said that the words, "it is witnessed," which were written above the seal, were not in his handwriting. He accounted for his seal's being on the bond by saying that Nanda Kumar had put it there without his knowledge or consent. He said that he had sent the seal to Nanda Kumar in 1763 when the latter was at Monghyr with Mir Jafar, in order that it might be affixed to an *arzi* which Kamal wanted to be drawn up and presented to the Nawab. Kamal does not tell us where he was when he sent his seal and the whole story is very strange. Why should he not have written the petition himself, and sealed it, and then have sent it to Nanda Kumar to present? \* Sir J. Stephen says that Kamal is corroborated by his khansamah, Husein Ali, but the khansamah referred to by Kamal is called Qasim Ali in the report, and granting that this is a misprint, there is a discrepancy about the number of gold mohurs sent, for Kamal says he sent two, and Husein Ali says three were sent. Another curious point was that Kamaladdin gave no satisfactory evidence of his name's having been formerly Mahomed Kamal. He said he had received a sanad when his name was changed, but he left it behind him in Hughli and did not produce it in Court. He produced a letter† which he said Nanda Kumar had written him, and in which he was addressed as Mahomed Kamal, but there is nothing in the report to show that this letter was proved to be Nanda Kumar's, Mr. Farrer at first, according to the report, admitted that Nanda Kumar had got a letter from Kamal, but he afterwards retracted this admission, and moreover, when he was examined before the House of Commons, he stated that the report was incorrect here, and that he never admitted the letter. Such at least is my note taken in 1876-7 of what he said. I have not been able to verify it. According to Kamaladdin he got the title of Khan, etc., when the King of Delhi and Colonel Coote were at Patna, and consequently in 1761. He ought, therefore, to have been known by the name of Kamaladdin Khan from 1761. Kamal

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\* In fairness to Kamaladdin, I should state that Colonel Fullarton said in his speech, that it was not uncommon in India for a person to send his seal to a confidential friend, to be affixed to a deed.

† The letter was dated 2nd Rabi al Akhir 4th Jalus (10th October 1763). I do not know where Sir J. S. got authority for saying that Shah Alam succeeded in January 1760. (I, 114, note). His father was murdered on 8th Rabi as Sani 1173 (29th November 1759) but apparently the reign was reckoned as beginning on 1st Jamada al Awal following (December 21st, 1759.) Sir J. S. betrays singular ignorance for an ex-Member of Council by his remark that, as Shah Alam succeeded in January 1760, the fourth year of the reign would *therefore* begin in January 1763. He evidently does not know that the Mahomedan year is shorter than the Christian by 11 days. The fourth year of the Jalus began on Jamadal Awal 1176 (19th November 1762.)

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got over this difficulty by saying that he could not assume the title till it was confirmed by the Nawab, and that this did not occur till the time of Najam-ad-Daula. But even in that case he must have taken the title before the date of the jewels-bond, for he says that the confirmation took place when Nanda Kumar was Naib Diwan, and ten or fifteen days before Mahomed Reza was appointed. It would appear, therefore, that his name was changed in February or March 1765, and that Nanda Kumar must have been aware of the fact. Is it likely that Nanda Kumar would use in August 1765 a seal which he knew had become obsolete? Of course the improbability is increased if we suppose that the deed was not forged till 1770.

A note in the report of Kamaladdin's evidence says "he produced a paper sealed with the same seal, to prove he had the seal. The jury compared it with the impression on the bond, and think them the same; each of the impressions showed a small flaw which was in the original seal." I suppose that this note is Sir J. Stephen's authority for remarking, "it seems probable that Commaul's seal was in fact used in sealing the bond, for Cominaul produced a paper sealed by himself at an earlier period with the same seal. The impression on that paper had a flaw in it, which he said existed in the seal itself." I, however, find no evidence in the report that the paper produced was of earlier date, nor does Kamal say anywhere that the flaw existed in the original seal.

Sir J. Stephen admits that Kamaladdin was a very poor creature, and I have in a previous article shown how little he was to be believed, and how he was connected with Hastings' banyan. His story about his seal in this case wears a suspicious resemblance to his evidence about his seal in the conspiracy case. His servant, Hussein Ali, gave evidence in that case also, and must, I think, have been disbelieved, for the accused were acquitted on the matter of the *arzi*. Kamaladdin gave evidence of an alleged confession by Nanda Kumar, always a very suspicious story in an Indian case. Two witnesses, Khwaja Petrus and Munshi Sadaraddin were called to corroborate him by showing that he had told them what Nanda Kumar had said. Sir J. Stephen considers that their evidence corroborates Kamal's, though he admits that such evidence would probably not be admitted now-a-days. He says, "the accounts given by Khwaja Petrus\* and Sadaraddin, of what Kamaladdin said to them, are more complete than his evidence at the trial. The account given by Kamaladdin in his evidence supplies

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\* Petrus is softened into Bedross, in Hindustani, apparently.

no reason why Nanda Kumar should make a confession to him. The accounts given by Khwaja Petruse, and Sadaraddin explain this. Kamaladdin wanted Nanda Kumar's security, and Nanda Kumar wanted Kamaladdin's evidence." And then he goes on to speak of a suit in the Mayor's Court, though, in fact, there never was one there. Sir J. Stephen omits to notice that the evidence of the two witnesses is more complete than Kamal's, only because it is inconsistent with it. Kamal's story is that he heard from Mohan Prasad that Nanda Kumar had affixed his seal to a bond and that he went and asked Nanda Kumar about it, who thereon confessed that he had done so. This was two or three months before Kamal got his farm, and so must have occurred in March or April 1772. There was no quarrel then and Kamal afterwards went and asked Nanda Kumar to be his security—surely a very strange thing to do, if he knew that Nanda Kumar had been forging his name. Neither did Kamal go at once and tell his friends, Petruse and Sadaraddin about the forgery, as, would have been natural for him to do. He did not tell them anything about the matter till the question about the security arose. Sadaraddin fixes the date of the conversation, for he tells us it was in Asarh 1179 (June-July, 1772) and Kamal tells that he was going to complain about the time when Nanda Kumar was confined by Mr. Palk, and that Sadaraddin dissuaded him because of Guru Das' appointment. Now this we know was not made till July. There is also the remarkable statement in Sadaraddin's evidence that four or five days after Kamal had told him about the forgery, he came and told him that he had by intreaty succeeded in inducing Nanda Kumar to be his security. It is, I submit, incredible, that Kamal would ask Nanda Kumar to be his security after he had found out that he had forged his name, and he himself had refused to be a party to the fraud. I have elsewhere pointed out the improbability that Kamal would have gone in 1775 to borrow money from Nanda Kumar if he knew that he had forged his name, or that Mohan Prasad would have failed to cite Kamaladdin as a witness in the civil suit, if the seal to the bond was his.

There is also the extraordinary passage in Kamal's evidence about his having seen the bond with Nanda Kumar (937.) a thing which he could not have done later than January 1770.

Khwaja Petruse was an old ally of Hastings, and according to M. Raymond, lent him money in 1764, and so enabled him to go home. His brother was Mir Qasim's general, and \* was killed, it is supposed, because Mir Qasim suspected him

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\* (See Bolts 3, App. C, 300, note.)

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of being in correspondence with Petrusse. According to M. Raymond, this was so far true that Petrusse had written to his brother Gregory at the request of Vansittart and Hastings, and implored him to come over to the English camp. Not long after the trial Hastings wrote that he would not deny the connection which formerly subsisted between Qasim Ali and himself, adding that it was as well-known to the world, as the little advantage he made of it. Only a month after Nanda Kumar was hanged, Hastings gave a remarkable proof of his connection with Mir Qasim by bringing forward, on 7th September 1775 Karim Ula, a vakil of Mir Qasim, as a claimant on behalf of his master for a large sum of money from Ballaki Das. On this occasion Colonel Monson stated that Khwaja Petrusse had been looked upon as a suspected person during the war with Mir Qasim, and had been confined as such at the representation of Nanda Kumar. This of course would make Khwaja Petrusse an enemy of Nanda Kumar.

Sadaraddin was the munshi of Mr. Graham an old enemy of Nanda Kumar, and one of those who had in 1772 protested against Guru Das' appointment. In the conspiracy case Sadaraddin deposed that he was eight years with Mr. Graham and that when the latter went away, he recommended him to Mr. Barwell. In answer to the question if he was in any employment, he said, "I have no settled wages, but I stay about Mr. Barwell's." From some papers in the Foreign Office it appears that Sadaraddin had, at one time, been in the service of Nanda Kumar, and had been recommended to Holwell by him. When an inquiry was made in 1761 into certain alleged forgeries by Nanda Kumar, it was supposed that Sadaraddin had written them. A munshi named Selimula told Vansittart that the letters which were found on the Qasid, Ram Ratan, and which purported to come from Ram Charan, appeared to be in the handwriting of Sadaraddin, and Hastings, in a letter of 26th November, (1764?) speaks of Sadaraddin as being an accomplice of Nanda Kumar. No doubt this is what is referred to in the so-called "life of Nanda Kumar," where it is said (II, 284.) that Munshi Sadaraddin was grievously harassed, though it is wrongly implied that the harassment came from Nanda Kumar. Sadaraddin's intimacy with Kamaladdin, Ganga Govind Singh, and Barwell, was abundantly brought out in the course of the three trials; and so early as the 8th May, we have General Clavering asserting that Sadaraddin was a secret mover in the conspiracy against Nanda Kumar.\*

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\* It seems not improbable that Sadaraddin was the person named Sadar-al Hak Khan, and who was afterwards appointed by Hastings supreme

The witnesses to prove that Silavat's\* signature was a forgery, were a Brahman named Sabut (?) Pathak † and Raja Naba Krishna. The Brahman said that he had been Silavat's servant, and spoke very confidently about his handwriting. It is difficult to say if he was worthy of credit. His Urdu was a little too high for Elliot, who did not, therefore, fully understand him. Perhaps this may account for what looks like contradictions in his evidence, *e. g.*, he said he left Delhi for the first time 9 years before; and in another place, that he was at the battle of Baxar which was fought in 1764. I gather from his evidence that he did not live with Silavat in Calcutta, and if he did not, he could not have had much opportunity of becoming acquainted with his handwriting. He said: "Silavat came to Calcutta and I went home." This sentence immediately follows the mention of the battle of Buxar, and seems to mean that Silavat went to Calcutta thereafter, and that Sabut went back to Delhi. It may be noted that this witness' father contradicted himself so grossly that the Court refused to allow him to be recalled. Naba Krishna was by no means

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magistrate at Murshidabad in supersession of Mahomed Raza Khan. He may have changed his name, as his friend Kamaladdin says he did, on getting an appointment: the Sair speaks of him as getting a title when he was appointed. It also describes the appointment as being very much above his abilities, and says it was given on account of Sadar al Hak's attaching himself to Hastings, and being an assiduous worshipper at the altar of his power. Another thing which makes the identification not unlikely is, that Sadaraddin and Sadar-al-Hak had both been darogahs, or judges of Adalats. Sadar-al-Hak was a very old man when he got his appointment, and this again agrees with the account of Sadaraddin, who must have been an old man, as he was Holwell's munshi before the battle of Plassy. If there had been a Sadar-al-Hak Khan who supported Hastings, and who was distinct from Sadaraddin, we should surely have heard of him in some of the trials. Perhaps some native gentleman who reads this may be able to clear up the matter. Sadar al-Hak was a native of Gujrat, and is said to have been once employed at Bhagulpore.

When Maclean was negotiating in the East India House, he wrote to Hastings that one proposition of the compromise was, that some mark of favour should be conferred on the black servants who had been dismissed for attachment to him, and that among them Rajballabh, Kamaladdin, Dalil Rai, and Ganga Govind Singh were specified by name. Truly a shining array of satellites to attend our Eastern Jupiter. He also said that a proposition was made to reinstate Playdell who had been dismissed for a similar cause. This is the man who, according to Impey, was dismissed for signing an address in his favour. Playdell presided at the trial of Radha Charan Mitra in 1765. He was afterwards dismissed by the Court of Directors, so that he was twice turned out. Impey seems to have conferred an appointment on him, for he is described in the Bengal Obituary as a Master in Chancery.

\* Silavat (of an amiable disposition.)

† He said, however, that he was with him when he died. Probably it was to this witness, or his father, that Ballaki left Rs. 100 to under the name of Pathakiji.



so positive as Sabut. The Chief Justice laid stress in his charge on the fact that this witness at once pointed out Silavat's handwriting; but to this it may be rejoined that the papers had already been marked *Exhibit G.* so that the witness might easily guess which paper he had to identify. He was asked if he could swear that the handwriting on the bond was not Silavat's, and answered "Silavat has wrote several letters to me and Lord Clive, and has wrote several things before me; this is not the kind of writing I have seen him write; but God knows whether it is his handwriting or not."

Naba Krishna was an old enemy of Nanda Kumar, and according to Bolts, his character was very bad. He was also intimately connected with Hastings whom he had known ever since 1750, when he first came out to India. He was then Hastings' Persian munshi, and this introduction was the foundation of Naba Krishna's fortunes. He was a banyan (perhaps the head of his class, for he had been banyan to Lord Clive,) and according to Hastings, banyans were devils.\* (Gleig, I, 269. In 1778, Hastings rewarded Naba Krishna for his services (?) by giving him the unique position of a Calcutta taluqdar, and two years later borrowed three lakhs of rupees from him.†

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\* Naba Krishna was fond of matrimony, for he married seven wives in succession.

† Hastings also gave Naba Krishna charge of the estate and person of the Bardwan Rajah in 1780. (in revenue language made him Sezawal). Naba Krishna filed a bill in Chancery on 27th June 1792, for the recovery of the three lakhs lent to Hastings; these were sikkas, and at the rate of the claim amounted to £37,500. The bill stated that the money was lent in 1780. The Master of the Rolls dismissed it without going into the question of whether the money had been lent or not, and though the defence admitted some parts of plaintiff's statement of claim to be true. The ground was that the nature of the agreement between the parties was not proved, and the judgment called forth from Naba Krishna's solicitor the comment, that his Honour had laboured very hard to avoid going into the merits. The date of the decree was 13th August 1804; long before which Hastings had admitted before the House of Commons that he had borrowed the money. His words there were—"In the year 1783, when I was actually in want of a sum of money for my private expenses, owing to the Company's not having at that time sufficient cash in their treasury to pay my salary, I borrowed three lakhs of rupees of Rajah Naba Krishna, an inhabitant of Calcutta, whom I desired to call upon me with a bond properly filled up; he did so, but at the time I was going to execute it, he *entreated* I would rather accept the money than execute the bond. I neither accepted the offer nor refused it, and my determination upon it remained suspended between the alternative of keeping the money as a loan to be repaid, and of taking it and applying it, as I had done other sums, to the Company's use. And there the matter rested till I undertook my journey to Lucknow, when I determined to accept the money to the Company's use."

In February 1805, Hastings wrote to his friend D'Oyley about the satisfaction which the dismissal of Naba Krishna's bill had given him, and mentioned that the Chancellor had been one of his advocates during

The above was all the direct evidence of the forgery, and I submit that, even if believed, it was insufficient. Granting that Kamaladdin was Mahomed Kamal, and that Silavat's signature was forged, still it was not proved that the bond was forged. It is not uncommon in India for false attestations to be made to genuine documents, and Nanda Kumar might have affixed Kamal's seal and Silavat's signature to a genuine bond of Ballaki Das. There was no count charging him with forging the signatures. I have elsewhere (*C. R.*, Jan. 1886) discussed the evidence of Mohan Prasad and Kista Jiban, and I have also there referred to the other documents in the case. It would seem that the evidence for the prosecution did not occupy the Court more than two days, for we find witnesses for the defence being examined on Sunday the 11th. Indeed, the whole of the prosecution might have been got through in one day by a Court independent of interpreters. At the close of the case for the prosecution, Mr. Farrer submitted that there was no evidence of the forgery of the bond, but he was overruled by the Court. We are not told what his grounds were, but it seems to me very likely that he took the point that, at most, it was only the attestations and not the bond itself which were proved to be forged. Sir J. Stephen says that no notice of the difference between the forgery of the deed and the forgery of the attestations seems to have been taken by the Counsel for the prisoner, but surely his argument that there was no proof of the forgery of the bond meant this, for he could not have denied that there was evidence of the forgery of the attestations.

Before calling his witnesses, Mr. Farrer shortly stated his  
the process, and so had relinquished the decision to the Master of the Rolls. Larbins, the Accountant General, was examined at great length about Naba Krishna's loan, and gave very evasive answers. He said that the transaction was entered in Mr. Hastings' private books as a loan, and that he had heard Mr. Hastings say that Naba Krishna had given up the bond to him. He says (answer 2766) "Mr. Hastings borrowed money very soon after he arrived in Bengal, and continued in the habit of doing so till he left Bengal." Question: "Do you recollect from whom he borrowed these sums of money." Answer: "From a variety of people. Mr. Hastings was very indifferent as to the persons from whom he borrowed it."

Maharajah Naba Krishna's life has been written by Babu Bepin Behari Mitra. It appears from this work that Naba Krishna and Hastings were born in the same year and became acquainted in 1750. In 1753, Naba Krishna accompanied Hastings to Qasim Bazar. From the same work we learn the traditional origin of Hastings' affection for Kanta Babu, *viz.*, that the latter sheltered him in his house at Qasim Bazar for some days, before he made his escape to Falta. Kanta's full name was Krishna Kanta Nandi, and the illustrious Maharani Sarnamai is the widow of his great grandson.

defence. He said he would call witnesses who were present when Ballaki executed the bond; that two witnesses to the bond, now dead, were living when the transaction came to the knowledge of Mohan Prasad; that he would produce letters in Ballaki Das' handwriting, admitting the bond, and the circumstances of the jewels, and an account signed by Mohan Prasad and Padma Mohan Das, in the presence of Ganga Vishnu, in which the sum contained in the bond is included, as also a paper in the handwriting of Ballaki Das, in which the particulars of the transaction are stated; and that entries were made of the same in the books that were lost and letters of correspondence between Ballaki Das and Maharaja Nanda Kumar, in which the transaction was mentioned. The two witnesses here referred to were, no doubt, Madhab Rai and Mahomed Kamal, the first of whom appears to have died in January 1773 and the other in 1770.

The account mentioned is exhibit M, of which I have elsewhere said so much (*C. R.*, Jan., 1886.) The letters of Ballaki were produced, but not allowed to be given in evidence, on account of their not being sealed or signed by Ballaki.

The first witness was Taj Rai, a Khatii by caste, and a native of Chinsura. He deposed that Madhab Rai was his elder brother, and proved a letter written by himself, and sealed with his brother's seal. He said that his brother and he were the sons of Saheb Rai, and the grandsons of Bangu Lal, that his brother was born at Barcai Bele (?) Adam-pur, near Dhanekhali, and that his brother died there about two and a half years ago. The next two witnesses examined were Hazari Mal and Kashi Nath. We are not told who called them but it appears likely that they were called by the Court. As I have pointed out in a previous article this was a practice of the Court throughout the trial. My reasons for thinking that these two witnesses were called by the Court are, first:—That Taj Rai's evidence was interrupted for their examination. 2nd.—That I do not think that the defence would call witnesses who did not support their case. 3rd.—Hazari Mal and Kashi Nath were connected with the prosecution rather than with the defence. Hazari was one of the partners in the Bank which Hastings had created, and Kashi Nath was, or had been, a banyan, he having been banyan to Mr. Russell (Bolts 3, App F, 529.) He was afterwards plaintiff in the famous Kasijora case. 4th.—Hazari Mal \* signed the

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\* Hazari Mal was the wife's brother and servant of Amichand and one of the executors of his will. He had some connection with Mohan Prasad, for in 1793 a Mr. Geo. Williamson, Vendue-Master to the Company, deposed that Hazari Mal came to him, hearing he was about to dismiss his banyan and desired that Williamson would employ him. "He introduced

address to the Chief Justice which a witness for the defence was hardly likely to do. 5th.—In his charge Impey does not speak of Hazari Mal and Kashi Nath as witnesses for the defence. However, even if Hazari Mal were a witness for the defence, he cannot be said to have contradicted Taj Rai. The latter said that his brother had been known to Hazari Mal and Hazari Mal admitted that he knew a Madhab Rai, but said that he would be now about sixty, whereas Taj Rai said that he would be now thirty-six and a half. No stress, however, can be laid on native statements about age. Hazari was asked if he was sure that Madhab was over twenty-six, and answered : "He was certainly more than twenty-six ; I before said he was fifty years, I cannot tell to a year." He had only seen him once or twice and his recollection of him was evidently very imperfect. He knew nothing about his relations. Kashi Nath knew a Madhab Rai, but his Madhab Rai was quite distinct from Taj Rai's brother. The Madhab Rai he knew was the son of Bangu Lal, and belonged to Bardwan.

He did not even know the witness Taj Rai. When Taj Rai was confronted with him, he said that there was another Bangu Lal, who lived at Hugli, and was in service at Mankur. This quite agreed with Taj Rai's description of his grandfather, Bangu Lal, who, he said, lived at Satgaon and was farmer of Mankur. Taj Rai was fully corroborated by Rup Narain Chaudhari ; he was a very competent witness, for he was peshkar to the Rani of Bardwan, and was chosen by the majority on 30th December 1774 to be joint-guardian with her of her son. Hastings referred to him in his remarks of 13th March as one of his enemies. Rup Narain deposed that Taj Rai and Madhab Rai were brothers, that Madhab wrote him a letter in Bhadra 1179, and that he died in Magh 1179, that is, January-February 1773. Sir J. Stephen says that Taj Rai said in cross-examination that he had his brother's seal, and could produce it, but that he does not appear to have been asked to produce it, and that this, as far as it goes, indicates that it did not correspond with the seal on the bond. This is not fairly stated. A letter written by Taj Rai, for his brother, and sealed with his brother's seal, was produced in Court and marked *Exhibit I*. It was addressed to Rup Narain Chaudhri, and was apparently the letter of Bhadra 1179, deposed to by Rup Narain. If this impression had not agreed with that on the bond, we should certainly have heard of it. It was probably this impression which was identified by the witness Chaitanya Nath (991).

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Dial Chand (apparently the adopted son of Amichand) and Mohan Prasad, saying that they would be the ostensible persons, but that he himself would transact my business. Mohan Prasad was a merchant here." Montriou : *Precedents, &c.*, on the Hindu Will, p. 27.

This witness also proved the existence of Madhab Rai (988). Sir J. Stephen has taken no notice of this fact, or of the fact of his recognising the impression of Madhab Rai's seal.

Four witnesses deposed to the execution of the bond, Jai Deb Chaube, Chaitanya Nath, Lala Doman Singh and Yar Mahomed. They were cross-examined with great severity, but, I do not see that they were broken down in any way. Sir J. Stephen says that there were some inconsistencies in their evidence. "For instance, Jai Deb Chaube said that there was no particular conversation at the sealing of the deed, and that the inkstand used was before Ballaki Das, when he and the others came into the room. Lala Doman Singh said that Ballaki Das told Silavat that he had settled with Nanda Kumar about the jewels, that Nanda Kumar was his patron, and it would not be proper to have a difference with him, and, that the inkstand was brought in by the khidmatgar."

This passage shows with how little care Sir J. Stephen has read the evidence. It is quite true that Doman Singh spoke to a conversation about the jewels, and that he said that the inkstand was brought in by a khidmatgar; and it is also true that Jai Deb said there was no particular conversation, etc., but Sir J. Stephen, to use a phrase of his own, (154, note) has "omitted to observe the explanation." This is simply that the conversation and the bringing in of the inkstand occurred before Jai Deb arrived at Ballaki's house. The story told by the three witnesses, Jai Deb, Chaitanya Nath and Yar Mahomed is, that the giving of the bond was settled by Ballaki at Nanda Kumar's house, and then Ballaki went home in his palki to have it written. The three witnesses and Mahomed Kamal followed him, but as they walked and did not leave till a little later (1011) they arrived some time after Ballaki. Meanwhile, Lala Doman Singh,\* who was in Ballaki's house before the latter arrived, heard the conversation between Ballaki and Silavat, and saw the inkstand brought in. He distinctly says in his evidence that these things occurred before Jai Deb, and the others came in, (997.) Nor is Sir J. Stephen correct in his subsequent remark, that there was an extraordi-

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\* Sir J. S. says that all the four witnesses to the bond were dependents of Nanda Kumar. This is not strictly correct, for Lala Doman Singh was never in Nanda Kumar's service or dependent on him. He was for several years in the service of Rajah Dhiraj Narain, younger brother of the unfortunate Rajah Ram Narain and came to Calcutta on his business and that of his relative, Rajah Basant (?) Rai. In one place he says he is in service with Radha Charan, but subsequently seems to say that he is servant to Rajah Basant Rai. He appears to have been also in Hastings' service for he accompanied him to Benares (in 1773?). Radha Charan, though the son-in-law of Nanda Kumar had an appointment of his own that of vakil to the Nawab.

nary and unnatural agreement between the witnesses, and that they all gave the same evidence as to the order in which the witnesses sealed the bond, and as to Silavat alone signing.

A similar statement was made by the Chief Justice, who said that the witnesses were uniformly accurate in describing the order in which the witnesses sealed and signed. In fact, however, there are some differences in their depositions. Jai Deb and Doman Singh said that nobody used a pen except Silavat and the writer, but Chaitanya Nath said (990) that both Madhab and Mahomed Kamil wrote something over their seals. Again Jai Deb said that he did not remember whether Madhab Rai sealed after Mahomed Kamal, or Silavat signed after him, Mahomed Kamal.

Jai Deb Chaube and Yar Mahomed proved that Mahomed Kamal was dead. In connection with this there was an alleged statement of Jai Deb which the Chief Justice dwelt upon in this charge, but which I cannot believe that he ever uttered. Jai Deb was a Brahman, and yet he is represented as deposing that when he saw the body being carried out, he enquired whether it was a Brahman or a Masalman going to be buried. The witness denied afterwards that he ever said anything of the kind, and it is absurd to suppose that he would ask if it was a Brahman who was going to be *buried*. Elliot must have misunderstood him.

Lala Doman Singh was acquainted with Persian and proved Ballaki's seal on some envelopes. On this part of the case there is the following note in the report. "He (Doman Singh) proves a seal of Ballaki Das to three envelopes, which had been opened, and which the counsel for the prisoner offered in evidence, but was overruled by the Court, there being no signature from Ballaki Das to the papers enclosed, nor any proof whose handwriting they were, or that those papers were originally enclosed in the envelopes; because if they were allowed to be given in evidence, they might impose what papers they pleased on the Court by putting them into the envelopes." The jury having desired to look at the papers, the foreman observed on inspecting them that, it was an insult to their understanding, to offer those papers in evidence, as papers of the date which they purported to be of.

"(The counsel for the prisoner, speaking in a warm and improper manner to the jury.)"

*Court.*—"This is a manner in which the jury ought not, and shall not, be spoke to. The prisoner ought not to suffer from the intemperance of his advocate. You, gentlemen of the jury, ought not to receive any prejudice to the prisoner on that account, nor from the papers themselves, which not having been admitted in evidence, you should not have seen, whatever

observation you have made you should forget ; it is from what is given in evidence only that you are to determine."

*Jury*.—"We will receive no prejudice from it. We shall consider it the same as if we had not seen it ; we will only determine by the evidence produced."

It appears from this note, and from the Chief Justice's charge that it was the seeming recency of the writing which made the jury feel themselves insulted. Now, though we are not told what the letters were, it may be presumed that they were the letters referred to in Mr. Farrer's opening address, as admissions by Ballaki of the bond, and the circumstances of the jewels. They could not, then, be older than August 1765, and might be as recent as 1769 ; and I say, unhesitatingly, that it was rash and improper in the jury to conclude dogmatically that the papers could not be ten or six years old. It is doubtful if any of them could read the papers, and it is certain that some of them could not. But even if the letters had been in English, I think it would have been foolish to feel insulted at being asked to believe that the letters had been written a few years ago. A large experience of such questions has taught me that it is most unsafe to determine from the mere look of a native document whether it is old or recent. Sir J. Stephen shirks the question of the recency of the writing but justifies the conduct of the jury by referring to the letters being unauthenticated. The question of non-authentication was not the point taken by the jury and it was a point for the Court and not for them to take. It however merits elucidation. The facts were that the letters were not signed or sealed by anybody, but that Ballaki's seal was impressed on the envelopes. This no doubt appeared strange to Impey and his brother-judges, and was one at least of the reasons why he would not allow the papers to be put in evidence. Possibly this was correct according to English law, but Farrer was also correct in complaining. (*viz.* Impey's charge.) "Persian letters, sealed in the usual mode of the country (were) not allowed to be given in evidence by our law ; letters sealed in the usual mode in England would."

The following note by the translator of the *Sair Matakhirin*, (II, 394) explains the custom : "Letters are never signed in India (but the Gentoos sign). The writer only, if he be a man of importance, writes the word *baiz*, or even *iz*, in large characters ; now as the seal whereon the writer's name is engraven, is put on the outside of the letter only, together with the place, name and date ; and all that is only set down on the cover, one may judge from thence what degree of authenticity such vouchers would be allowed in a European court of justice." There is another note (I, 250) where it is said that the emperor, as well as

the grantees of India, sign no otherwise than by writing the word *bais* at the bottom of the letter in a much larger character; their name, which is always the same as their seal, being stamped on the cover of the letter with printer's ink. Captain Williams was examined by the House of Commons before the impeachment, and the question was put to him (Bengal Appendix, 244,) "In what manner are Persian letters authenticated, or signed?" *Answer*—"Letters from and to equals, generally by a seal on the cover of the letter; and to inferiors on the bottom of the letter." In the same volume there is a letter from Captain Broome to Williams saying, "unless you could find the cover of the letter, it is impossible to know the writer, or the person written to, it being usual to write the name of the latter on the cover only, and to affix the seal of the former without any superscription of the writer's name, as is customary with us." In Appendix to the 11th report there is another instance in point. The Council were inquiring into the misconduct of Dalil Rai, and a petition by the vakil of Ram Krishna, Rani Bhowani's adopted son, was put in. Hastings objected that it was not authenticated, and Clavering replied, "The Persian letter delivered by Raja Ram Krishna's vakil has his seal upon the cover of it which is, I understand, the usual mark by which all letters are authenticated." To this Hastings answered: "It is not very usual for persons not in high authority to affix any signature to letters written in common course of business; but I believe this is seldom omitted on petitions." I submit that these extracts are conclusive. I do not put them forth as showing that Impey was wrong in rejecting the letters, though I think I might urge that too, but granting he was right according to English law, and that he was bound to administer that law and no other, it is clear that Nanda Kumar's case was seriously injured by the rejection of the documents.\* If they had been forgeries, would not the forger have taken care to make them complete and both signed, and sealed?

It looks as if the first note of Haji Mastapi (M. Raymond) had been written with reference to Nanda Kumar's trial. The remark that the "Gentoos sign" does not invalidate my argument, for, though Ballaki was a Hindu, he was one much conversant with Mahomedans, and the letters were in Persian, and as such would be written in accordance with Mahomedan customs. We are not told if the envelopes bore the date of sealing, but it seems clear that they did, or else that the letters

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\* I submit also that when Impey was so strict about applying the English law of evidence, he should have been equally so about the English definitions of the deeds mentioned in 2 Geo. 2 and should not have hanged Nanda Kumar for forging a paper as to which he could not determine whether it was a promissory note or a bond.



were dated, for otherwise the jury could not have spoken of their purporting to be of a certain date. Impey said in his charge: "You cast your eyes on those letters and observed on the recency of the writing. You thought them an imposition; but as they were not given in evidence, I desired you would not suffer it to make any impression on you. I have no apprehension the laws of any country would permit them to be given in evidence. They were letters inclosed in a cover sealed with the seal of Ballaki Das; but were separated from the covers which had been opened. Any writings might have been put into those covers. There was no signature to the letters. There was no attempt to prove that the direction of the covers were (sic) of the same handwriting with the letters themselves or that they were in the handwriting of Ballaki Das, or of any of his writers. If this was allowed, any evidence might be fabricated, to serve all purposes. Letters in England have the signature of the writer, and his handwriting may be proved. It is impossible these could be given in evidence." In those days\* the rule of English law was, I believe, that two papers could not be compared in order to ascertain if they were written by the same person, and apparently this was the rule adopted on the trial, for otherwise the jury might have looked at the directions on the covers and have seen if they agreed with the handwriting of the letters. No doubt this absurd rule would make the task of proving the letters a difficult one, but still the Court might have called Kista Jiban to say if he knew the handwriting. As the letters were rejected before they were given in evidence we do not know what proofs of genuineness Farrer was prepared to give. It would seem from Yar Mahomed's evidence that one of the letters had been sent by Nanda Kumar to his attorney, Mr. Jarret, through the witness, Jai Deb Chaube, (1017-1018.) Nanda Kumar's mouth, of course, was closed, but Jai Deb and Jarret might have given evidence of this, and it seems very unlikely that the prisoner could not have at least attempted to prove the handwriting, etc. He could at least have called some one who was present when the letters were delivered, and who had heard them read. The fact seems to be that it was Impey's ignorance of native customs which caused the letters to be thus summarily rejected, and that this was another instance of Nanda Kumar's suffering from the ignorance of his judges. It was perhaps after this scene that Nanda Kumar sent for his counsel and told him that he was convinced that the Court were his enemies, and that therefore he proposed at once to submit to his fate and to give up defending himself any more. Sir J. Stephen is angry with me for the use I made

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\* Field's Law of Evidence, p. 433, quoting Taylor.

of this incident in a former article, and charges me with inverting Farrer's meaning. I cannot see that I have done so. Nanda Kumar distinctly, "very strongly, and very solemnly," asked Farrer if he did not think that his witnesses had been very differently treated by the Court to what the prosecutor's had been, and Farrer was unable to deny it. I say he was unable because he admits that he avoided giving a direct answer to the question. Now, why should he do this unless he felt that Nanda Kumar's remark was just? Or why should Farrer take upon himself the very delicate and dangerous task of expostulating with the judges (his proceeding really amounted to this) unless he felt that there was ground for Nanda Kumar's complaint. One of the judges, Sir Robert Chambers, acknowledged that there was ground for the remark, and went the length of sending a private message to Nanda Kumar. Nor do I think I was wrong in saying that Farrer stated that his witnesses had been badly treated by the judges, and that when he remonstrated, they were treated worse. His actual words are: "I declare, I think that the prisoner's witnesses fared worse afterwards than they had done before." And no doubt they did, if Mir Asad and Yar Mahomed were examined after the remonstrance. The words *fared worse* are relative, and indicate that the witnesses fared badly before, and in what way did they fare badly except in being subjected to long and severe cross-examinations by the judges? This was the bad treatment of which Nanda Kumar complained, and which Chambers regretted. The judges excused their conduct by saying to Farrer that the defence was suspicious, and that the witnesses for the defence appeared to be prepared, etc. But was not Kamal's story suspicious? Should they not have cross-examined him as to why he did not write out the *arsi* and send it sealed; why he did not produce the *sanad* for changing his name; where he was when he wrote the letter; what had become of the enclosure in Nanda Kumar's letter, etc.

I have elsewhere discussed the evidence of Mir Asad and Kista Jiban. and the only other witnesses whom I need say anything about are Manahar Mitra and Ram Nath. Manahar said that Mohan Prasad sent for him three days before the Maharaja was committed to jail, and showed him a bond in which there was mention of pearls, (the jewels-bond,) and tried to get him to say that it was in his handwriting. He showed him two tips also, and said that if he would say that they were in his handwriting, the Maharaja would be a great liar and meet with great punishment. He also said, "I do not want you to tell me for nothing; I will give you 4 or 5,000 Rapis." The witness refused to say that the documents were in his handwriting, then Mohan Prasad said, well, if you will not say it is your

handwriting, find out a man that will say it is his handwriting ; whatever is to be given, I will give him ; I will likewise make you joyful. Mohan Prasad said, enquire for such a man ; I answered, I cannot do this ; I said he was advising me to do a very bad business, and I went from thence.

Mohan Prasad denied that he had ever shown Manahar the bond, and said that the only time he had shown him a copy of the bond was some two years ago.\* Apparently he denied having seen Manahar shortly before the Raja's commitment, and at all events, he denied having had any talk with him about the bond. He denied having seen Manahar within a week before the commitment, at his house. Against this we have the evidence of Manahar, and also that of Kista Jiban, who said that he had seen Manahar come to Mohan Prasad's house, ten or twelve days before the Rajah's commitment. Manahar was contradicted by Mr. Durham about his having seen the bond with Mohan Prasad exactly three days before the commitment, but either of them might have been mistaken by a day. There is an important admission in Mohan Prasad's evidence that he showed the bond to Jagat Chand, Nanda Kumar's son-in-law, and to Khwaja Petruse, which shows that they were concerned in the getting up of the case. Mr. Durham also said that he sent for Manahar, and showed him the bond in the presence of Mohan Pershad and Jagat Chand.

Ram Nath Das was originally a witness for the prosecution, and had been examined as such on 6th May. At the trial, however, the crown did not call him, and was examined by the defence.

There is a discrepancy in his evidence as to when he had an interview with Mohan Prasad. In one place he said it was nine or ten months before he was examined before the judges ; and in another, that it was ten or twelve days after the Rajah's commitment. Perhaps he had two interviews. Ram Nath said that he took a message from Nanda Kumar to Mohan Prasad about his giving up the prosecution, and that Mohan Prasad made the remarkable reply that he had told a great many English gentlemen of the affair and could not desist. One of his expressions was : "Think within yourself how can I desist?" I submit that this tallies with Nanda Kumar's assertion that Mohan Prasad had frequent interviews with Hastings, and that here, at least, we have Farrer attempting to show that Mohan Pershad was not the real prosecutor. Mohan

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\* Showing Manahar a copy could not help Mohan Prasad in discovering who wrote the original. I am of opinion, therefore, that Manahar's evidence is true and that the original was shown to him.

Prasad was willing to desist, apparently, but could not on account of the English gentlemen. Ram Nath also admitted that Mohan Prasad had lent him money.

A witness named Gopi Nath Das deposed that on 9th Chait, (20th March) Ram Nath told him that he had taken a bazar in farm, that Mohan Prasad had paid the expenses of his house and given him Rs. 300 to give evidence. According to Ram Nath's account, it was Gopi Nath who tried to bribe him. I have already intimated that very likely this Ram Nath was the man who accused Naba Krishna, and of whom Bolts tells us so much.

Two other witnesses, Ataram Bosu, and Nimai Das, deposed that Mohan Prasad's character was bad.

On the last day of the trial Mr. J. Stewart was called in to produce the books of the Council, but informed the Court that the Board had forbidden him to bring them. We learn from the note on this subject that the books were sent for to discredit Yar Mahomed, a witness for the defence, by showing that he had been guilty of perjury before the Council and had been censured for that. It was the counsel for the Crown who stated this, and the only question of interest in the matter is how he came to know of the occurrence. Stewart, or Stuart, was the Secretary of the Council, and a protégé of Hastings. He had come out to India apparently as his private secretary, for Hancock, writing in 1772, says he was then private secretary. He was a son of Lord Bute, and so connected with influential persons.\* He was one of those who were said to have suffered for their attachment to Hastings, for the majority afterwards dismissed him, and he took part with Maclean in the intrigues at the India office. It is not improbable that Durham got his information from Stuart, if indeed he did not get it from Hastings himself. At all events, there is a curious reference to Yar Mahomed in one of Hastings' letters. Writing to Graham and Maclean, on 29th April 1775, he says: "Mr. Graham will remember Yar Mahomed!" This may refer to some evidence which he had given.

It is difficult to see how Mohan Prasad, if he was unconnected with Hastings, could have heard of Yar Mahomed's having been censured by the Board. The members were bound to secrecy but this would not prevent Hastings from telling Mohan Prasad or Durham, for he, on other occasions, broken his oath on this point.

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\* Francis thought he had given mortal offence to Lord Bute by insufficient attention to one of his sons. Francis, whether in *propria persona* or as Junius had a great dislike to Scotchmen, and it is curious to find him (Memoirs II, 200) designating them by a peculiar phrase "children of an ancient nation," an expression which resembles that of "an ancient nation" which Junius uses in his first letter to Lord Mansfield.

## THE CHARGE TO THE JURY.

The charge was delivered by Sir Elijah Impey. It was short, and unfavourable to the prisoner. The evidence was recapitulated, but it is clear, from the time taken by the Chief Justice, that he must have abridged the depositions very much. No notice was taken of *Exhibit M.*, nor of the improbability that Padma Mohan would join in a fraud on his master's family, and one which was very little, if at all, to his own advantage. Though the jury were told not to take any prejudice against the prisoner for not calling Ganga Vishnu, nothing was said of his loss by not getting his evidence or by the death of Padma Mohan. The delay in the prosecution was alluded to, but it was suggested that this might be accounted for by the papers not having been delivered out of the Mayor's Court. This was a very inadequate explanation, for Ganga Vishnu and Padam Mohan had the papers for months before they were filed in court, and Mohan Prasad's story was that he suspected forgery from the beginning. Nor was it pointed out that if Ganga Vishnu could institute a civil suit in 1772, he could equally well have instituted a criminal prosecution then. The production of the original bond was as much required for the civil suit as for the criminal trial. The jury were desired not to suffer their judgments to be biassed, or the prisoner to be in any way prejudiced by any matter whatsoever which had not been given in evidence, and almost in the same breath they were encouraged to rely on their private knowledge of the characters of Khwaja Petrusse and Mohan Prasad, and to determine, in this way, if it was likely that Mohan Prasad would accuse an innocent person! The following words of the charge deserve to be quoted here. Impey said : "much depends in this prosecution on the evidence of Mohan Prasad ; you must judge how far his credit has been shaken ; most of you know him, you must determine how far he deserves credit, and how probable it is that he would, through malice, or any other corrupt motive, accuse an innocent person of a capital crime. If you think him capable of it, you should 'not give the least attention to his evidence.'" No distinct reference was here made to the evidence of Manahar Mitra and Ram Nath, though it went to show that Mohan Prasad had tried to suborn evidence, and that the prosecution was being maintained at the instance of English gentlemen. The deaths of the attesting witnesses were referred to, but this was followed by what seems to me a foolish and cruel sneer. After saying that it was a great hardship to Nanda Kumar if Mohan Prasad had it in his power to carry on an effectual prosecution before, (apparently it was only a hardship on this condition), that the trial should take place when the witnesses to the

bond were dead; the Chief Justice added "though, to be sure, this hardship is much diminished, as there are so many witnesses still alive who were present at the execution of it."

This remark was either ironical, in which case it was cruel, and unworthy of a judge charging a jury in a case of a capital crime, or it showed gross ignorance. A judge acquainted with Indian cases, or even with ordinary human nature, would have known that when genuine evidence is unavailable, recourse is had to perjury.

Even if the four witnesses produced by Nanda Kumar were present at the execution of the bond, the hardship to Nanda Kumar was not diminished, for it could not be expected that the jury would give as much weight to witnesses not mentioned in the deed, as to those who had subscribed it. Speaking of the writer of the bond, Impey twice called him a Moor, and animadverted on the fact that no account had been given of him. He also said that Ballaki had a writer called Bal Krishna, that there was no evidence that he wrote the bond, and that he was, the Chief Justice thought, known to one of the witnesses to the bond. According to the report this last remark is without foundation. None of the attesting witnesses spoke of knowing the writer and none of them called him a Moor, that is, a Mahomedan. Unless, therefore, there are two misprints in the report, it would seem that Impey did not know the difference between a Moor and a moharir! The latter word is often pronounced moeri, which might account for the mistake being made by a careless man ignorant of the language. The Chief Justice then commented on the fact that Silavat had not written the bond. He said: "a witness says that Silavat was a Persian writer, as well as vakil to Ballaki Dass, and Krishna Jiban seems to confirm it. Being asked what Persian writer Ballaki had at that time, he answered, he had one named Bal Krishna, and Silavat also understood Persian. It is not said to be of his writing, and if Silavat acted in that capacity, what occasion had Ballaki Das to call for another writer." Now, according to the report, Kista Jiban did not say that Silavat understood Persian, and as he admitted that he himself was ignorant of it, his testimony to Silavat's knowledge would not have been worth much, even if he had given it. He was asked: "Had Ballaki Das any munshi?" and answered: "He had a munshi called Balkopen(?); he had also a vakil called Silavat." Impey's remark that Kista Jiban's saying that Silavat understood Persian confirms the statement that he was a Persian writer, reminds us of Sir J. Stephen's idea that, because Impey could understand Persian, therefore he could read it. Neither of these learned judges seems to have been aware that the reading and writing of

Persian are a very different thing from being able to understand it when spoken. Silavat was the vakil, and hardly likely to do munshi's work, especially if his services were also required as a witness. Besides, Sabut Pathak deposed that Silavat did not write a good hand, and in this he was to some extent confirmed by Naba Krishna, so that here we may have a good reason why he was not employed to write an important bond. Another remark of Impey's about the bond was, that all the witnesses agreed that no directions were given in the room of the writer before the people came from Maharaja Nanda Kumar's. Now, as only one witness deposed to what occurred before the people came from Nanda Kumar's the word *all* is inappropriate. No notice was taken of the inconsistency between Kamal's evidence and that of Petrusc, and Sadaraddin, nor of the omission to show that Kamal had given evidence in the Civil Court. No notice was taken of the hardship to the prisoner caused by letters sealed in the usual mode of the country not being admissible in evidence, or of the rashness of the jury in pronouncing on their age. The main defects of the charge, however, seem to me to be that the Chief Justice did not point out the weakness of the prosecutor's case and that he laid the whole burden of proof on the defence. The unlikelihood of Nanda Kumar's committing forgery was but slightly referred to, and the jury were almost called upon to convict him in order to save the character of Mohan Prasad.

Three times was the attention of the jury called to this point, and each time in strong and inflammatory language. They were told that if Mohan Prasad knew of the *kararnama* the prosecution was most horrid and diabolical; that he was in that case guilty of a crime more horrid than murder; that if the defence was believed, an indelible mark of infamy would be fixed on the prosecutor, and they were asked if, from their knowledge of Mohan Prasad, it was likely that he would accuse an innocent person of a capital crime.

The evidence of Mir Asad Ali was unjustly aspersed, and advantage was taken of this to cast discredit on the whole of the evidence for the defence. First, it was assumed, without proof, and contrary to all probability, that Mir Asad's receipt was a forgery, and then this was made a handle for suggesting perjury against the other witnesses. Taj Rai was disparaged because he said that his brother was well-known to Kashi Nath Babu, whereas Kashi Nath did not know him. According to the report, however, Taj Rai did not say that his brother was well-known to Kashi Nath, but only that he had heard that his brother had gone to Bardwan with Kashi Nath, who had promised to give him employment. As Kashi Nath said that 500 or 1,000 people had gone with him, expecting employment, he might

well have forgotten about a poor umedwar, such as Madhab Rai. No doubt some of the defects in Impey's charge were due to his ignorance of the language and the country, and to his inexperience in the art of charging juries, for I suppose this was the first charge he ever delivered. One would be inclined to make allowances on this account, if he had taken more pains, but by his own admission, he only took a few minutes to recollect himself. How could he expect to deal satisfactorily with a difficult and novel case, after so little preparation, and at an hour when he and every one concerned in the case should have been in their beds !

Sir J. Stephen admits that the case for the prosecution was not a strong one, and that it was little more than a *prima facie* case. Impey's fault was that he did not notice this to the jury, but that, on the contrary, he directed them to convict Nanda Kumar if they disbelieved the defence. His words were, and they were uttered almost at the closing of the charge : "The nature of the defence is such, that if it is not believed, it must prove fatal to the party, for if you do not believe it, you determine that it is supported by perjury, and that of an aggravated kind, as it attempts to fix perjury, and subornation of perjury on the prosecutor and his witnesses." Even Sir J. Stephen deserts Impey here, and says in a note that he thinks this goes too far ; to bolster up a good case by perjury is not an uncommon thing in India. The value of the newspaper panegyrics on Sir J. Stephen's book is illustrated by the fact that the *Times*' reviewer actually quotes this note of Sir J. Stephen as a  *caveat*  against Impey's too great leniency to the prisoner, and reckons it as one of the fourteen instances in which Sir J. Stephen has shown that Impey was extremely favourable to the accused !! I suppose the reviewer remembered that Sir J. Stephen had said that there was not a remark in the charge which he would himself have been ashamed to make, and consequently never dreamt that he would round upon Impey in this way. I believe that I am speaking within bounds when I say that, if any sessions judge were to make such a remark as that of Impey, in his charge, the High Court would order a new trial. Why Impey, should have spoken of the perjury as being of an aggravated kind, I cannot understand. I should have said it was a very mitigated form of perjury, for it was not given to convict any one, but to obtain the release of an aged Brahman from a stale and unjust charge got up from political motives, and from a sentence abhorrent to native ideas.\*

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\* Granting, too, that Nanda Kumar's witnesses were perjurers, what evidence was there that he had suborned them, and why should he have been dealt with more severely on account of their fault ?



Sir J. Stephen is very positive that sentence was not passed on Nanda Kumar on the 16th June, but it appears that his only reason for this is that Farrer afterwards moved for arrest of judgment. He says that to move in arrest of judgment after a man was sentenced to be hanged would be like moving in arrest of execution after he had been hanged. I admit my unfamiliarity with the technical language of English criminal law, and that I may have made a mistake here, but Sir J. Stephens' reasoning does not seem to me conclusive. Farrer was absent when the verdict was brought in, and sentence may have been passed in his absence, and yet he have been allowed afterwards to move against it, I remember a case in the Calcutta Supreme Court; it was the famous one of Sib Krishna Bannarji, and my impression is that in it sentence of transportation was passed on one of the prisoners for subornation of perjury, and that immediately afterwards his counsel was allowed to move in arrest of judgment, the judge ordering that the sentence should not be recorded. In Nanda Kumar's case, apparently, no sentence was ever recorded, that is, no judgment was ever entered up. All that occurred was that the judges

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Impey referred in his charge to the fact that neither side had thought fit to produce the proceedings in the civil suit. Sir J. Stephen quotes, (I, 168,) note, Farrer's reasons for not producing them, and says they go far to show that his client was guilty. Elsewhere, (I, 177,) he intimates that Farrer believed his client to be guilty. This seems to me inconsistent with Farrer's statement that he relied on the inapplicability of the statute, and on the merits of the case itself, for procuring his client's acquittal. We have, however, an account of the civil suit from a higher authority than Farrer's, *viz.* from the judge who heard the case, and his account was that the evidence in support of the claim was inconclusive. His, Mr. Rous's words, as given in Elliot's speech, are as follows:—

"The suit on the part of Mohan Prasad against Nuncomar, and the transaction itself, seemed, in the judgment of the court, defective in point of regularity, and the evidence in support of it inconclusive; the cause was of an intricate nature, and depended materially on accounts carried on in neither of the three languages, understood more or less, by the Board, but in the Nagari language, in which no member of the Board was a competent judge; and there was a darkness in the whole transaction, which after much careful inquiry, prevented him from forming any decision satisfactory to his own mind; and therefore, he recommended that the cause should be left to arbitration." Upon this, Elliot remarks, "these circumstances, however, formed no subject of doubt or hesitation in the mind of Sir Elijah. He declares, that no doubts upon the question did exist." It is surely a very striking circumstance against Impey that on his impeachment, Macdonald and Arden, the solicitor and attorney generals, though they voted for him, admitted that if they had sat as judges, they would have respited the prisoner. Wrayall justly remarks that this admission was a moral condemnation. We learn from Montrieux's work on the Hindu will. (pp. 55, and 3,) that the decree passed on an award of arbitrators by the Court of Kachahri was appealable on the merits, so that, apparently, even if the arbitration proposed in Ganga Vishnu's case had taken place, litigation would not have been at an end.

signed the calendar,\* and it appears from Hyde J.'s note, quoted by Mr. Belchambers, that this was not done till 24th July. The calendar contained other cases besides that of Nanda Kumar, and this partly explains why Chambers signed it, even though he objected to the hanging of him. Hyde's note is corroborated by Yeandle, the Jailor's affidavit, if any corroboration is needed, for Yeandle says, that the interval between the condemnation and the execution was about twenty days. I find, too, that the Nawab Mubarak-ad-Daula petitioned the Council by a letter dated 21st June, though not received till the 27th idem, to suspend the execution of Nanda Kumar till the pleasure of the king of England should be known, which shows that sentence had been already passed. But if Sir J. Stephen is correct, sentence was not passed before the 23rd, or 24th, June. I submit, too, that Farrer's phrase, *definitive sentences*, would seem to point to a previous sentence, and to imply that the one now passed was final.

In the interim between the verdict and the execution, Farrer did what he could for his client by moving in arrest of judgment, by filing a petition of appeal, and by trying to get the jury to recommend the prisoner to mercy. Sir J. Stephen asserts that during his interval no one showed the smallest sympathy with Nanda Kumar, and that the only petition which appears to have been presented was one by Radha Charan, his son-in-law. These are positive statements, and he is still more positive in censuring Macaulay for speaking of Impey's refusal to respite Nanda Kumar. (II, 64, note). He says: "A refusal implies a request. Lord Macaulay would have been puzzled to answer the question who asked for a respite? I believe that no one did so and it makes a great difference." No doubt Macaulay would have been puzzled to reply if he had not based his statement upon some more stable authority than his own opinion. Probably he had consulted the Bengal Appendix (no very inaccessible book) and had there found the petition for Nanda Kumar's respite presented by the Nawab of Bengal, Mubarak-ad-Daula. It was presented to the Council, and was, forwarded by Hastings and the other Councillors to Impey. The date given is 27th June 1775, but the copy of the Persian petition, which I have received through the kindness of Mr. B. L. Gupta, the judge of Murshidabad, is dated 16th Rabi-as-sani, which corresponds to 21st June 1775. Further, I am able to state, that Impey was angry with the Nawab for making the petition, and wrote to him telling him that he was wrong to write to the Council, as it had nothing to do with the Supreme Court. In

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\* Impey said in his speech that the calendars were the only warrants for execution in Calcutta.

reply the Nawab wrote on 11th July, excusing himself. Sir J. Stephen is very severe on the majority of the Council for not interfering to save Nanda Kumar's life. He says that on 1st August they had it in their power to do so by simply voting, in their capacity of a majority of the Council, to send to the Judges the letter which Farrer had drawn; and that if they at that time believed that Nanda Kumar was innocent and on the point of being judicially murdered, they made themselves accomplices in the murder. He also says that if the Council had written to the Judges that Nanda Kumar had charged Hastings with corruption, and that it was of the highest importance that the charges should be investigated, and that Nanda Kumar's execution would prevent this, that the Judges must have granted a reprieve. Francis had explained that the majority did not apply to the Court because the latter had told them that it was unconstitutional to address them by letter. Sir J. Stephen is very wroth with this explanation, and says: "Francis must either have overlooked or wilfully refused to notice the broad distinction between writing a letter to the Court on a matter judicially before, it and writing on a matter in which they had to exercise an executive discretion. The latter is as natural and proper as the former is unconstitutional. The Home Secretary in England constantly corresponds with individual Judges, as to applications for pardons. He would never dream of writing to a Judge as to the exercise of his judicial duties."

It appears to me that Sir J. Stephen has here overlooked a broad distinction. The Home Secretary represents the sovereign, and so can correspond with Judges about pardons, which fall within the sovereign's prerogative. But Impey and his brethren were far from admitting that the Council represented the sovereign. In their eyes, the Councillors were only servants of the East India Company\* and it was the Judges who represented the king. The majority did try to interfere in an executive matter, by asking the Chief Justice to mitigate the rigour of Nanda Kumar's imprisonment. With this view they sent Nanda Kumar's petition to him. Impey requested them to instruct Nanda Kumar to present his petitions in future direct to the Judges. In reply the Councillors said: "We cannot refuse to receive any petitions presented to us and if they relate to the administration of justice we conceive we are bound by our duty to communicate them to the Judges." On 30th May Impey rejoined as follows:—"As to communicating petitions to the Judges I apprehend that no Board, even of the highest authority in England, could refer any matter either to a Court of Jus-

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\* In a letter of 2nd August 1775 to the Court of Directors, the Judges speak of the members of council as "your servants."

tice or to any Judge thereof, otherwise than by suit lawfully instituted." Impey's view was affirmed by all the Judges on 23rd June in connection with Radha Charan's case.

Sir James Stephen (as has been already said) remarks that the only petition shown to have been presented was one by Nanda Kumar's son-in-law, Radha Charan. This is misleading. It is true that the petition was presented by Radha Charan but it was not his own but of that the Nawab of Bengal, as whose vakil he presented it. The petition was received on 27th June and was as follows :—

"If several transactions of former times are to be tried by the Act lately transmitted from the King of Great Britain, it will occasion trouble and ruin to the inhabitants of this country. The affair of Maharaja Nanda Kumar, which is now before the Court, is really hard and rigorous. For should the crime of which he is accused, be proved against him in the said Court, the custom of this country does not make it deserving of capital punishment ; nor, as I am informed, was life formerly forfeited for it in your own country ; this has only been common for a few years past. The Maharaja has transacted affairs of the greatest importance. When Mir Qasim Ali had taken the resolution to ruin and expel the English the Maharaja in particular exerted himself to the utmost with my father in supplying them with grain and money for the use of their troops.

The services of the Maharaja on this occasion are well known to the King of Hindustan ; certainly he never could have committed so contemptible a crime ; people employed in important affairs will undoubtedly have many enemies, and these who have been active in the affair of Nanda Kumar have long been his declared foes. Taking, therefore, into consideration, the welfare of the people, I beg in particular, with regard to this affair, that the Raja's execution may be suspended till the pleasure of his Majesty the King of England shall be known." Resolved that a copy of this translation be transmitted with the following letter to the Chief Justice and Judges of the Supreme Court of Judicature.

"*Gentlemen.*—We have this instant received a letter from His Excellency the Nawab Mubarak-ad-daula Mutaman Al Mulk Firoz Jung Bahadur, through the hands of Rai Radha Charan, his public vakil, containing an intercession on behalf of Maharaja Nanda Kumar ; we conceive it to be regular on our part to transmit it to you and of which we shall inform the Nawab." This letter was signed by Hastings as well as by the rest of the Council, though of course this does not show that he approved of it. The Judges never answered this letter, so far as I know, and the following remarks show conclusively, I think, that they did not. In the course of the inquiry about Rai Radha Charan,

Impey said, "I cannot help observing a small circumstance. I have, since the claim made by the Council for Rai Radha Charan, received two letters from the Nawab directed to myself, and one original letter from him, directed to the Governor-General and Council, inclosed in a letter from them to the Court. Though improper, we took no notice of that letter. I had before received letters from him; they had the usual alkab, the same that is given to the first in Council. The letters to me since the dispute, to give him a higher air of consequence, make the alkab much inferior. The same artifice is made use of in that sent to the Governor-General and Council. The alkab sent to the Governor-General and Council is infinitely inferior to that formerly sent to the first in Council and myself. They best know whether at any other period they would have admitted a letter from him with that alkab. They best know whether they in future are to be treated with the same inferiority. This observation will not be so striking to those who are not conversant with the customs and ideas of the natives, and do not know how tenacious they are of that address"\*

I think it cannot be doubted that the following letter from the Nawab refers to what Impey had written to him about his application in Nanda Kumar's behalf. The original was procured for me from the Nawab's palace, by the kindness of Mr. Gupta, and I am indebted to the Hon'ble Syed Amir Hossein for a translation of it :—

Copy of a letter of Nawab Mubarakoodowlah, Bahadur, Nawab Nazim of Bengal, Behar and Orissa, to Sir Elijah Impey, Chief Justice. Dated the 6th Jamadi-al awal 17 Jalsu.

Your letter in reply to mine has been received and has pleased me much. It was stated therein that what was written about the trial of Maharajah

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\* Sir J. Stephen's statement that nobody sympathised with Nanda Kumar is also contradicted by the evidence of Mr Farrer, who deposed that the execution caused general terror and dismay. This too was proved by the evidence of Major Kennel, Captain Cowe Mr. Mills, Baber, Goring and Captain Price. Farrer said in his evidence that a petition was prepared in the name of Sambhu Nath Rai, Nanda Kumar's brother, and that this was the first time he ever heard that Nanda Kumar had a brother. From a Kursinama prepared for me in Murshidabad I find that Sambhu Nath was the cousin of Nanda Kumar, being the son of Raghu Nath, the half brother of Padma Labh the father of Nanda Kumar. It is worth noting that when Hastings enumerated in his Benares narrative the crimes of Chait Singh, he dwelt on the fact that he had in June 1777 sent a man named Sambhu Nath with an express commission to Clavering, but that he got no further than Murshidabad. Thornton justly refers to this as an instance of the implacable and revengeful nature of Hastings. It is probable and a correspondent assures me that this Sambhu Nath was the cousin of Nanda Kumar. Here then we have another instance of the *æternunt servans sub-pectore vulnus*. That Chait Singh should send an ambassador to Clavering was very bad, but that he should employ a relative of the detested Nanda Kumar in the work was as vinegar upon nitre.

Nanda Kumar has caused much surprise, for the officers of the Court of Justice do not hear the advice and accept the counsel of any other persons in such matters; and that there is no truth in what I have heard that the Members of the Council have been written to with regard to this matter, because there is very great difference between the business of the Council and of the Court of Justice, and there is no connection between the two. Let the past be past. It would not be advisable to write about this matter again, for its repetition will cause displeasure to the officers of the Court of Justice. In all other matters whatever has to be written should be written to the officer of the Court of Justice. It has been stated that the language of the letter which has been written, and the complimentary terms used in it, were, in comparison to those of the former letters, entirely unsuitable.

Sir, what you have been pleased to write has been carefully perused. It ought to be mentioned, however, that as the said Maharajah during the lifetime of my deceased father served the English Company faithfully, and was never lacking in his efforts to promote their interests, peace, you were put to the trouble of considering a representation in his favour for I and all the people of this country look up to you gentlemen for justice, and it is to you gentlemen to whom every person comes to submit an appeal. However, if this has caused displeasure you will be pleased to forgive it. With regard to epistolary language and complimentary terms this well-wisher will always be pleased to exalt your dignity.

Nanda Kumar having been hanged, the next thing to be done was to justify the act in England. For this purpose Alexander Elliot, who had acted as interpreter during the trial was forthwith sent home entrusted with the publication of the trial. Elliot was secretary to the Khalsa, and Hastings' permission was necessary for his departure. Hastings gave it and took part in sending him, another link in the chain of evidence connecting him with Nanda Kumar's case. (Hastings' letter to Maclean of 14th July 1776: Gleig II, 48.)

"I wish," he writes, "I had early received and followed the advice of Sir Gilbert Elliot. I am afraid I have too often furnished the majority with arms against myself by observing a contrary rule. No part of your letter has given me so much pleasure as the information of his disposition towards me. It will have prepared him to receive with greater approbation the event of his son's return. I shall never forgive myself for having consented to it, if he is displeased with it; and yet I am sure that it was placing my friend Elliot in a point of view so conspicuous, that perhaps another opportunity might not have occurred in the course of his life to make his abilities equally known to the public, nor equally useful. But I will not entertain a doubt on the subject. It was a laudable measure; † it will be received as such, and it will prove successful in every way." In a letter of 25th June, 1776 (Gleig, II, 68) Maclean writes that Elliot has been ill, and that he really believes chagrin at the little service he was able to do. Hastings with Lord North had had some share in his illness. He goes

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on, "Sir Elijah Impey will expect a letter from me. Be good enough to assure him that I watch over his cause with the same unremitting *zeal* and *care* as over yours. Intentions were very hostile to him at first. He is, I am pretty certain, in no danger. *Magna est lex et prevalebit.*"\*

In connection with this the following letter of Impey should be read. It was written on 8th August 1775, and addressed, I believe, to Elliot. I found it among the Hastings' papers in the British Museum.

"I am apprehensive that the majority of the Council will endeavour to assign undue motives for the late execution."† There are two points I am much solicitous about; one that I may be defended from any imputation laid on me for acting from partiality or factiously. I would by no means have my friendship to Mr. Hastings be denied or extenuated. It was founded on friendship for a school-fellow, and has been confirmed by opinion of the man. The other, that the disputes which have been between the Council and the Court may be rightly understood, I wish my friends to be furnished with extracts of all consultations in which we are named or alluded to, from the 4th May till the present time, and that the letter which I sent back may not be forgot.‡ I shall think it unjust if, acting as I have done from conscientious motives, I should be recalled from a station to which I have sacrificed no very bad views in England. We miss you already." It was probably in answer to this letter that Elliot wrote from Khejiri a letter which Sir Richard Sutton read to the House of Commons.

By the kindness of Sir Richard Garth, I have been able to examine the bundle of papers in the High Court, which are known as Nanda Kumar's case, and which have been described

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\* Apparently Maclean could be sarcastic when he chose. The substitution of *lex* for *veritas* is significant.

† These words and the fact that the Judges employed Elliot to print the trial are sufficient to disprove Sir J. Stephen's audacious assertion (I, 230) that no one at the time showed the very least disapproval of the conduct of the Judges. Impey knew better than this. He said in his speech that the accusation was made in despatches and letters sent to England in 1775, and that the Judges heard of the calumny a year afterwards. On 20th January 1776, we find him writing a long letter of defence with reference to these despatches, he having received secret copies of the minutes of the Council from his friend Hastings. Impey bound himself by an oath not to divulge the minutes in Calcutta. Strange that Hastings when breaking his own oath should take one from another man. The phrase "legal murder" was attributed to Lord Mansfield in a letter written 1st December 1780, from Calcutta.

‡ This refers to a letter of 16th June, addressed by the Board to Impey, and returned by him on the ground that it should have been addressed to all the Judges.

by Mr. Belchambers in his note on the trial. None of the papers is of much importance.

The recognizances to prosecute are executed by Hastings and Vansittart, and Nanda Kumar's recognizance to appear is only on their charges, which goes to corroborate the statement made by the majority that Barwell declined prosecuting. Barwell himself, as we have seen, stated that it was not his intention to have prosecuted Fowke, and that he neither asked for bail, nor was bound over. He told his counsel to prosecute, he says, but evidently his prosecution was a very languid one, for Barwell took no pains to produce evidence, but left the proof to the evidence there might be produced before the Court. There is an affidavit by two Surgeons, Clement Francis and Walter Gowdie, that Fowke was too ill to attend on 21st June, and that he would be unable to do so for some days. This does not explain why Fowke's case was not taken up at the beginning of the session which was the day fixed for the appearance of the prosecutors and the defendants in all the recognizances. It may be remembered that Hastings says in his letter of 29th April (Gleig, I, 525,) that the assizes would be held on 15th June, and his information was likely to be good, as he had been in communication with the Judges, having asked them if he could, with propriety, send for Kamaladdin and examine him. By the recognizances Hastings and Vansittart bound themselves to appear on the first day of the next sessions of *oyer* and *terminer* and there prefer an indictment or indictments. Why then were these indictments not drawn up till 19th June? It appears from one paper that the foreman of the Grand Jury was one George Abbott.

In the bundle there is a curious paper which has no connection with the conspiracy case. It is a plaint preferred by one Dionysius Manasseh, in the Mayor's Court, against Nanda Kumar, his son Guru Das, and his sons-in-law, Radha Charan and Jagat Chand, for goods supplied. The plaint states that Nanda Kumar induced plaintiff to send up Rs. 1,287, worth of goods to Saiyid-abad by saying that the Nawab would buy them, etc., and that plaintiff had sent them up accordingly to Guru Das. The plaint is dated 7th December 1773, and is endorsed with the name of Driver as the attorney. The paper is interesting, as bearing out my contention that Armenians were not regarded as natives, for if Manasseh had been a native, the case could not have been brought in the Mayor's Court without the consent of the parties.



## RECAPITULATION.

In the preceding article and in that published in the *Calcutta Review* for January 1886, I have given an account of the trials of Nanda Kumar for conspiracy and forgery, and I have criticised at length the recent work of Sir J. Stephen's "Story of Nuncomar."

I set out by saying that I should endeavour to establish nine points, and I now proceed to gather up the evidence I have adduced in proof of each.

I. *That the exhibit bond—exhibit A of the trial—was not a forgery, but was the genuine deed of Ballaki Das Seth.*

The evidence on this point may be taken together with that on my seventh proposition, viz:—*That the prosecution entirely failed to prove that the bond was a forgery.*

I do not think that I need spend many words in showing that this last point is established. Sir J. Stephen admits that the case against Nanda Kumar was a weak one. He describes it as being little more than a *prima facie* case, and says that Nanda Kumar was convicted from his own want of judgment, and from the effect produced on the jury by the mass of perjury put forward in his defence. For an Indian case, this is tantamount to an admission that the prisoner should have been acquitted. It has long been a maxim with Indian tribunals that prisoners should not be convicted because they set up false defences. Thus, when a Sessions Judge had argued for a conviction from the futility of the defence, the Calcutta Nizamat Adalat observed in 1851, that "attention should always, chiefly and carefully, be directed to the goodness of the evidence for the prosecution; because if the charge be not fully and satisfactorily established, it signifies little how worthless soever the defence may be. In this country persons charged with offences, supported by good or bad proof, never trust to their innocence."

Impey was so ignorant or regardless of this fact, that he told the jury to convict if they did not believe the defence; his words were, and it is important to remember that they were uttered just at the closing of the charge—"The nature of the defence is such, that if it is not believed, it must prove fatal to the party, for if you do not believe it, you determine that it is supported by perjury, and that of an aggravated kind, as it attempts to fix perjury and subornation of perjury on the prosecutor and his witnesses." Even Sir J. Stephen admits that Impey was wrong here, and says, "I think this goes too far. To bolster up a good case by perjury is not an uncommon thing in India." Moreover, the grounds on which Sir Elijah Impey, and Sir J. Stephen after him, held that the defence was false and supported by perjury, will

not stand examination. Mir Asad Ali was, in all probability, a truthful witness, and it is certain that he was not proved to be a perjurer. He was acquitted when he was afterwards tried for perjury, and I have shown that the reasons given by Sir J. Stephen for doubting the genuineness of the receipt he produced, are altogether worthless. He produced a receipt given by Ballaki for money brought from Rohtas, and I have shown that Mir Qasim was in possession of Rohtas in September 1764, that he had his treasure there, and that Mir Asad was a man of position, and employed at Rohtas at about the date of the receipt. Besides this, why should the defence have undergone the trouble and risk of forging an impression of Ballaki's seal on a receipt, when the prosecution gave no evidence whatever that the impression on the bond was a forgery? Mohan Prasad never said that the impression on the bond was not a genuine impression, or that it did not resemble a genuine impression. Still less did he or any other witness endeavour to prove that it was unlike the impression of the genuine seal. Presumably Ballaki's seal was in the hands of his executor, and certainly he and Mohan Prasad must have had papers bearing impressions of the genuine seal. Yet they never produced them, or offered to do so. It would almost appear, too, that it was not the case for the prosecution that the impression on the bond was made from a forged seal. Their contention seems rather to have been, that the genuine seal was fraudulently applied to the bond through the connivance of Padma Mohan.

This may be inferred from Farrer's question in cross-examination to Mohan Prasad: "Tell at what time you first suspected that the seal of Ballaki Das was improperly made use of?" A little further on he asks, "Did you see upon the face of the bond anything to make you suspect it?" *Answer.*—"It was not signed by Ballaki Das, and I knew that Silavat was dead a year and a half before." There is not a word here about the impression being suspicious. By signing, Mohan Prasad did not mean sealing, for he had previously deposed, in his examination-in-chief, that Ballaki always put his sign-manual to a bond, and that he never heard of his putting his seal to obligatory papers. He added, "Sarrafis in Calcutta sign a bond, and do not fix any seal."

Thus we see clearly that Mohan Prasad impugned the bond, not because he considered the impression of the seal to be a forgery, but because it was not signed by Ballaki. It is evident, too, how hard pressed he was to give any intelligible reasons for believing the bond to be a forgery. Silavat's death in 1768 or 1769, was no reason why he should not have witnessed a bond in 1765, and as Ballaki was not a

Calcutta merchant, the argument from trade-customs, even if it were true, was quite irrelevant. We have it also on the authority of Maharaja Naba Krishna, a chief witness for the prosecution, that in transactions between parties, one of whom knew Nagari, and the other Persian and Bengali, a seal might be sufficient. The case under consideration was such a transaction, for Ballaki was an up-countryman, and kept his accounts in Nagari, and Nanda Kumar was a Bengali, but was acquainted with Persian, and always signed in that language. In fact the prosecution was obliged to admit that a seal might be sufficient in very important transactions, for they relied upon Nanda Kumar's receipt to prove the publication of the bond, and this was authenticated only by his seal. The negative argument for the falsity of the bond which is derived from the fact that it is not mentioned in the power of attorney executed by Ballaki in 1769 is admittedly of no great weight. The power was not prepared by Ballaki, or in his presence. It was prepared in Calcutta, while he was at Chandernagore, and it was carried to him there for signature. The list of debits and credits given in the power has this saving clause appended to it: "This I wrote by guess; and, besides this, whatever may appear from my papers is true debts and credits." The list of credits is headed by the entry "the English Company at the Dacca factory," but the amount of this claim is not set down, and it may be fairly argued that this omission might be a reason for not entering the debt to Nanda Kumar, as the payment of it was conditional on the receipt of the money from the Company. It may also be fairly said that the omission to put down the amount of the Company's debt shows that Kista Jiban, who prepared the paper, was not fully cognisant of all his master's business. It is, of course, impossible for us to understand fully, a transaction which took place more than a hundred years ago, concerning which we have not all the papers, but it is possible that the amount of the bond to Nanda Kumar may be included in the Darbar expenses which the power enjoins Mohan Prasad and Padma Mohan to pay. It may even be the case that though Ballaki executed the jewels-bond, there was, in fact, no such deposit of jewels as is mentioned in it. It may be that the bond was merely the way Ballaki took of promising Nanda Kumar a douccur if he recovered the Company's money for him. This is a suggestion which has been made to me by a Maimansingh pleader, Babu Keshab Chandra Acharje, and it is at least a possible hypothesis.

But the strongest argument to rebut that drawn from the silence of the power of attorney is this, that the power was in the hands of Ganga Vishnu and Padma Mohan, and that notwithstanding its silence and the fact deposed to by Mohan

Prasad, that he drew Ganga Vishnu's attention to the silence of the power of attorney, yet these two men paid Nanda Kumar his money, and no action was taken against him till some two years afterwards. Why should we suppose that the executor, Ganga Vishnu, committed so fraudulent and suicidal an act as to pay away the largest portion of his uncle's property without cause? Or why should Padma Mohan deprive himself of the ten per cent. on the Company's debt, which Ballaki left him in his will, if the bond to Nanda Kumar was not genuine? Sabut Pathak and Naba\* Krishna deposed that the alleged signature of Silavat on the bond did not appear to be genuine, but the latter did not speak positively, and even if we allow that their opinion was sincere, it is entitled to little weight. Kamaladdin denied that he was a witness to the bond, but this was also denied by the defence. Kamaladdin's story that his name was formerly Mahomed Kamal, and that the seal on the bond was his, was far from being satisfactorily proved. I do not find that the letter produced by Kamaladdin, and which he said was written to him by Nanda Kumar, was proved to be Nanda Kumar's. Farrer, I believe, denied that he had ever used the words attributed to him in the report. "I admit the Maharaja had the letter;" but even if he had said so, this only meant that Nanda Kumar had a letter from Kamal, and not that he had written the letter to Mahomed Kamal, which was produced in court.

It is clear that Kamaladdin was a man of worthless character and one whom nobody could believe. Sir J. Stephen calls him a very poor creature, and I have shown that he was disbelieved by the Council in December 1774, and by the jury in the conspiracy case brought by Hastings. In Barwell's case there was a conviction, but probably this was, as Sir J. Stephen conjectures, because the jury thought that Fowke's accusation of Barwell, at the preliminary examination, corroborated Kamal's evidence as to the extortion of the *fard*. Whereas in Hastings' case, Kamal's evidence was not corroborated; there was an acquittal. Kamal's character may be judged of from his own admission that he had drawn out two false petitions. His words are, "I said to Radha Charan, do you take these two arzis in deposit; I don't deliver them in as complaints; was I to complain, I would complain of what is true. In order to frighten him, I have wrote what I pleased myself." Sir J. Stephen

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\* Sir J. Stephen remarks that Naba Krishna was not cross-examined, but it appears from the recognisances of 7th May, that neither he nor Sabut was examined at the preliminary inquiry on 6th May. Nanda Kumar's counsel may therefore have been taken by surprise. Charib Pathak the father of Sabut gave evidence, but broke down, and then I suppose the prosecution thought of calling in the son.

has a curious comment on this and other admissions of Kamaladdin. He says that there is a kind of simple-minded faith in these frank statements, which is not without its weight : that the state of mind, in which a man considers common falsehood as fair play, but, looks on perjury with horror, is more intelligible than rational, and that many of Kamal's answers give a good illustration of what the current native view at that time was, and he believes still is, as to falsehood as distinguished from perjury. Thus, then, we have an admission from Sir J. Stephen that the principal witness for the prosecution in the forgery case was a man who considered common falsehood as fair play. I do not know where he got his notion that natives make a great distinction between falsehood and perjury. This view is contrary to that of the Government of India, which abolished oaths in 1840, as being obstructions to justice, and I believe it is opposed to the experience of most persons who have held judicial office in Bengal. \*

Even granting that Kamal's evidence was true, and that the alleged writing of Silavat was not genuine, it does not follow that the bond was a forgery. The attestations might have been forged to a genuine bond. What, however, is to my mind the most conclusive argument against the truth of the case for the prosecution, is the fact that it was chiefly supported by witnesses who were not cited, far less examined, in the Civil Court. If Kamal's evidence were true, can it be believed for a moment that Ganga Vishnu would not have examined him in the Civil suit? He could not have been ignorant of what Kamal could say, for his agent, Mohan Prasad, knew in 1772, that Kamal denied having witnessed the bond.

As I have already said, the strongest proof that the bond was genuine, is the fact that the executor paid it, and then remained silent for a lengthened period. I also see no reason to doubt that the bond was witnessed by Madhab Rai. The prosecution failed to show that Madhab Rai's seal was a forgery, or that such a person had never existed, and on the other hand, Taj Rai his brother and Rup Narain Chaudhari, proved that there had been such a man, and that he was dead. Four witnesses deposed to the execution of the bond, and to Mahomed Kamal's being distinct from Kamaladdin. It may be that the defence was driven by the iniquity of a stale prosecution into fabricating

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\* Sir J. Stephen has a great dislike to eloquence or passion. Desutute of these qualities himself, he has only contempt for those who are more richly endowed. To him the peroration of Sir Gilbert Elliot's speech savours only of mouldy wedding cake, but I think that even mouldy wedding cake (whatever its flavour) would have been better pabulum for his readers, than such Dead Sea fruit as this statement about the native view of falsehood and perjury.

false evidence by bringing forward men who were not really present when the bond was drawn up. This is possible, and would be in accordance with Sir J. Stephen's remark about good cases being sometimes bolstered up in India by perjury. I therefore do not lay stress on the evidence of the four alleged eye-witnesses, but at the same time I must observe that there is no particular reason for distrusting them. The contradictions said by Sir J. Stephen to occur in their depositions do not exist, as he would have discovered if he had read the trial more carefully. Sir J. Stephen thinks that the terms of the bond are suspicious, but this is a mistake arising out of his erroneous impression that Ballaki's money was in Company's bonds. If this had been the case, the reference to the Company's cash at Dacca might have seemed extraordinary, but in fact, there were no bonds till the money came to be paid. The money had been lent or taken at Dacca, and so the reference to Dacca was quite natural. And if, as the bond recites, the jewels were deposited with Ballaki to sell, there was nothing harsh, or unusual in Nanda Kumar's requiring him to pay their value seven years afterwards. Ballaki's house may have been plundered in 1764, but he ought to have sold the jewels long before, and have paid Nanda Kumar the proceeds. There is nothing suspicious in the fact of a deposit of jewels with Ballaki. Such transactions are common in India; *e. g.*, we know from a letter of Ballaki to Vansittart, that the jewels of Mir Jafar had at one time been deposited with him.

2. *That no attempt was made to prosecute Nanda Kumar before May 1775.* It was on Saturday the 6th May that Mohan Prasad gave his evidence, and that Nanda Kumar was thrown into jail, and I maintain that no overt step was taken to prosecute him until then. No doubt there were communings and plottings between Hastings and Mohan Prasad for months before, but nothing public was done till May. The story that Driver recommended Mohan Prasad to prosecute in March 1774, and that he accordingly applied to the Mayor's Court for the original papers, is contradicted by Driver's own petition. We there see that Ganga Vishnu, and not Mohan Prasad, was then his client, and that he asked for the papers because he had commenced suits in the Diwani Adalat; and wanted the bonds, receipts, and other vouchers, in order to establish the same. Sir Elijah Impey never ventured to say that this application of Driver had anything to do with a contemplated criminal prosecution. On the contrary, he said before the House of Commons, that he had no evidence to prove that the endeavouring to procure the papers from the Mayor's Court was intended as a step towards a criminal prosecution. Mohan Prasad did not say in his evidence, nor did Impey say

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in his charge, that there had been an attempt to prosecute in 1774. What Impey said to the jury was, "You have heard when the papers were delivered out of the Court; if there has been any designed delay, and if you think Mohan Prasad had it in his power to carry on an effectual prosecution before he has, it is a great hardship to Maharaja Nanda Kumar, especially as the witnesses to the bond are all dead, and you ought to consider this among other circumstances which are in his favour." And then he adds what seems to me to be either a cruel sneer, or a very inapt remark,—“though, to be sure, this hardship is much diminished, as there are so many witnesses still alive who were present at the execution of it.”

Again, in his defence before the House of Commons, Impey argued that the fact that Hastings had released Nanda Kumar after Palk had put him into confinement, was sufficient to prevent any native from prosecuting Nanda Kumar, as the only Criminal Court to resort to was that in which Hastings presided. He also mentioned the difficulty about obtaining the papers, but he did not say that Mohan Prasad tried to get them in 1774 in order to prosecute Nanda Kumar.\*

The Court of Kachahri over which Palk presided, was subordinate to the Governor and Council, to whom appeals lay from Palk's decisions. Hastings was therefore probably within his right in releasing Nanda Kumar, and at all events such action on his part could not frighten away a native from bringing a charge of forgery, any more than it frightened Ganga Vishnu from going on with the civil suit. It is also, I think, absurd to say that the papers could not have been got out of the Mayor's Court. A Criminal Court could certainly have compelled their production; and if Mohan Prasad or Ganga Vishnu had really wanted to prosecute Nanda Kumar criminally, and had tried in vain to get the papers from the Mayor's Court, they could have appealed against the order of refusal to the Court of Appeals, where Hastings presided, and to which the Mayor's Court was subordinate. Granting, however, that the papers could not be got out of the Mayor's Court, I do not see what there was in this to prevent Ganga Vishnu,

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\* Here I have to acknowledge that I did Impey an injustice in a former article, in saying that he had asserted that Palk had confined Nanda Kumar for forgery. I see now that he simply says that Palk had confined him, and this is quite true. It would have been more candid if he had said that the confinement was for contempt, for certainly the impression conveyed by his language is, that the confinement was for the forgery and this is how he has been understood by Sir J. Stephen. I suppose that he left the point obscure, because if he had said that the confinement was for contempt, it would have been seen that the act of Hastings in releasing Nanda Kumar, was no reason why a native might not expect justice if he prosecuted Nanda Kumar criminally.

or Mohan Prasad from starting criminal proceedings. They could at least have put in a petition to the Criminal Court and asked it to take cognizance of the charge, and to send for the papers. It was not as if they could not know without having possession of the original bond, whether it was a forgery or not. The paper was not missing though it was in the Mayor's Court. They had a copy of it, and if they could get a copy, they could also inspect the original.

The original was just as much wanted for the civil suit as for a criminal prosecution, and yet the fact of its being unattainable did not prevent the institution of the civil suit. Not does Boughton Rouse say, that the impossibility of getting the bond prevented him from disposing of the civil suit. Moreover, if we grant every thing that is alleged, grant that the bond could not be procured, and that no criminal prosecution could be started without it, all this will not account for the failure to prosecute before the papers went into the Mayor's Court. The executor had the bond in his possession in January 1770, and there is no evidence that it went out of his possession till 1771 or 1772.

In any case, he must have had it for months. Why did he not prosecute then? Mohan Prasad evidently felt himself pressed with this difficulty, for when the question was put to him "Why did you not begin this prosecution sooner?" his answer was, "I had very little power in the business of the deceased. Padma Mohan Das was the master." He never said that his difficulty was that he could not get the papers out of the Mayor's Court. Supposing that he had little power in the business then, there is still no explanation of why Ganga Vishnu did not prosecute. He was not a bedridden invalid in 1770-71. He took out probate, he went to Belvidere, and he endorsed the bonds over to Nanda Kumar. Mohan Prasad treated him as a capable man, for he showed him the papers, and he deposes that Ganga Vishnu was one of those who was always pressing Padma Mohan Das to settle the accounts, and to deliver them over.

He instituted the civil suit, why could he not institute a criminal charge?

3. *That there is strong circumstantial evidence that Hastings was the real prosecutor.* This is the most interesting of all the points, and the one which calls for most elucidation. I venture to think that I have added something to the evidence against Hastings, by showing that Belli, his Private Secretary and a member of his family, counteracted Farrer's endeavours to obtain a respite for Nanda Kumar. I have also given some facts and arguments in corroboration of Lord Macaulay's view, that Hastings acknowledged that Impey hanged Nanda Kumar in order to support him.



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The most obvious arguments to prove that Hastings was the real prosecutor are, that he was the intimate friend of the Chief Justice, who was a man utterly without scruples, as is shown by his subsequent conduct in the Pulbandi contracts and the Lucknow business; that there was no prosecution or attempt at a prosecution of Nanda Kumar till he had stood forth as the accuser of Hastings, and that it is impossible to believe that an English Judge would have hanged a Hindu for forgery, and that too on so stale and badly proved an accusation, unless he had been improperly influenced. These are all old arguments, and are those which were most dwelt upon by Hastings' contemporaries. To my mind this is greatly in their favour, for an argument must be good which strikes everybody and at once. All the special pleading in the world will not wipe out the facts that Nanda Kumar was prosecuted for forgery *after* he had charged Hastings with taking bribes, and that he was hanged while his charges were still under examination.

Sir J. Stephen observes that the coincidence in point of time between Nanda Kumar's accusations and the forgery charge was by no means close, as there was an interval of nearly eight weeks between them. I think, however, that most people will admit that this was a very short interval, especially when they remember that part of it was occupied by the prosecutions for conspiracy. Nanda Kumar accused Hastings in March; in April, Hastings, Barwell and Vansittart were getting up the conspiracy cases, and on 6th May, Nanda Kumar was arrested on a charge of forgery. The interval is less than that between Nanda Kumar's disgrace, and his appearance as Hastings' accuser, and yet no one, and Sir J. Stephen least of all, will deny that these two things were connected.

Nanda Kumar had certainly fallen out with Hastings in March 1774. and on 11th January 1775 the final rupture took place. On that day Hastings told Nanda Kumar that he was from henceforth his enemy in India and England, and he turned him out of his house and forbade him ever to approach him again. This was an open declaration of war, and yet Nanda Kumar did not come forward to accuse Hastings till two months afterwards. Sir J. Stephen, too, is inconsistent, for after pointing out the length of time between the two events, he proceeds (less than ten pages further on.) to argue that the interval was so short that Hastings could not possibly have got up the case. He says, "Nanda Kumar's attack upon Hastings was made on 13th March. All sorts of contrivance, consultation, study of native documents and books of account in various languages and in an imperfect state, would be necessary before a prosecution could be entered

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upon. But till April 24th, the deed alleged to be forged was in the custody of the Court with many other papers in the case. About this time they were delivered to Mohan Pershad, and Nanda Kumar was arrested on the 6th May. How was Hastings, who was previously ignorant of the dispute, to get it up and prepare to commence proceedings in the course of ten or twelve days?" There are several mistakes in this passage. In the first place, Nanda Kumar began his attack on the 11th and not on the 13th March.

Secondly.—Hastings acknowledged that he was for some time before aware that Nanda Kumar was going to attack him, and alleged that he had seen his paper of accusations.\* Indeed it was the circumstance that Nanda Kumar had, as Hastings believed, leagued himself with his enemies, which made Hastings give him a rebuff in October.

Third—It does not appear that the study of native documents and books of accounts was thought necessary by Mohan Prashad's advisers. for we learn from the report of the trial, that the books were produced *in consequence of a notice from the defendant to produce them*, but that Mr Durham, the Company's lawyer and Mohan Pershad's counsel, said that he declined making use of them, as they were in the Nagari character, and that he could not point out the entries as to which he meant to have examined Mohan Pershad. Sir J. Stephen's remark begs the question at issue. If the prosecution was a *bonâ fide* one, the books were necessary, but if it was a political conspiracy, the less the books were looked into, the better was the chance of the plot's being successful.

Fourth.—The interval was just as short for Mohan Prashad as for Hastings. He had not the original bond any more than Hastings, and must have decided on the prosecution in March or April, for Sir J. Stephen admits that Mohan Prashad must have been influenced in carrying on the prosecution by the events which were passing in Calcutta.

• Fifth.—The statement that Hastings was previously ignorant of the dispute is opposed to fact. He was fully aware of the dispute, and was patronising Mohan Prashad before Nanda Kumar brought his charges. In particular he knew about the civil suit, for he interfered in it by releasing Nanda Kumar when Palk had put him in confinement for contempt. This circumstance is proved both by Price and Impey, and it is only because Sir J. Stephen has not read the trial with care, that he doubts Impey's assertion that Palk confined Nanda

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\* In his letter of 16th May 1775, he says that it was the general report at the time, and that he believes it to be true, that when the majority arrived in the river Fowke, took down to Clavering a long list of charges which Nanda Kumar had forged.

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Kumar. Impey was quite right in saying that it was in evidence, for Kamaladdin referred to it in his deposition.

Sixth.—Sir J. Stephen's view that the time was too short for preparation, might have some foundation if Mohan Prashad had only seen the bond in April, but we know that he had had a copy more than two years before. All that happened in May was that Nanda Kumar was committed: the actual trial did not come on till June. Hastings and Mohan Prashad knew this, and consequently could calculate on having another month for the preparation of evidence.

The deposition which Mohan Prashad made in May has been lately discovered in the High Court of Calcutta.\* It is very short, and does not touch upon the appearance of the bond, and for all that we know, Lemaistre and Hyde made their commitment without reference to any suspicious appearances in the bond. We, at least, know that the bond was not in the hands of Ganga Vishnu's attorney, Driver, at about the time of the commitment, for Durham had it three days before Nanda Kumar was committed. Now Durham was the Company's lawyer, so that it would seem as if the prosecution was being looked after by one of Hastings' subordinates. The fact is that Sir J. Stephen has, in his eagerness to vindicate the reputation of a brother-judge, involved himself in contradictions. First, he tells us that the interval between Nanda Kumar's accusations and the forgery charge was too great to allow of a connection between the two; then he tells us that it was too short to admit of Hastings' getting up the case, and finally he says that the case was so badly got up, that it is unlikely that an able man like Hastings could have had any thing to do with it. Now as Sir J. Stephen's view is that Hastings was ignorant of the civil suit, and had little time for preparation; plain people would say that the weakness of the case was a proof that Hastings had got it up, and not Ganga Vishnu or Mohan Pershad who were fully acquainted with all the facts, and in particular, were familiar with the proceedings in the civil Court. The gallant knight has rushed like a lion into the fray, but, alas, he has been caught in the toils, and I much fear that all the little rats of the British Press will be unable to nibble him out again, even if they be as numerous as those who followed the Pied Piper of Hamelin.

Hastings' letters of the 27th March and 18th May are to my mind strong evidence of his being connected with the prosecution. In the first, which was written before the conspiracy or forgery charge had been set on foot, Hastings was in the depths of despair, and was contemplating an immediate flight from

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\* App. D. see p. 438.

India. He writes of a resolution which he has made to leave the place, and says that he shall consider himself at liberty to quit the hateful scene before his enemies gain their complete triumph over him. In the next, which was written in less than a fortnight after Nanda Kumar had been flung into jail, his tone is changed. He retracts his resolution to leave at once, and determines to wait the issue of his appeal to the Directors. His reasons are, that he cannot believe that the majority will be supported in their barefaced declarations of their connection with a scoundrel like Nanda Kumar, or that the people of England will approve of such things as their visit to Nanda Kumar when he was about to be prosecuted for conspiracy, and their elevating his son to high office when he was in gaol, and in a fair way to be hanged. In the same letter he incidentally gives a striking proof of the terror which was created among his native accusers by Nanda Kumar's commitment. After mentioning that Dalil Rai, the farmer of Rajshye, had been dismissed, and Rani Bhowani restored, and that one Nanda Lal had also been dismissed because he had tried to dissuade Ram Krishna, the adopted son of the Rani, from engaging in the dirty work proposed to him, (*i. e.* accusing Hastings.) and because he had at last separated himself from Ram Krishna, he adds, "after Nanda Kumar's commitment, the young scoundrel, (Ram Krishna,) sent an emissary to Kanta, entreating my forgiveness, and offering to reveal the arts which had been practised on him by Nanda Kumar to compel him to put his seal to the petition, if I would signify my approbation of it; but the General sent for him, took a second petition in confirmation of the former, and he is now tied down to the party for ever." We see, then, that Hastings' fortunes turned upon the Nanda Kumar question. If the majority were successful in their support of Nanda Kumar, Hastings would be ruined and would have to leave India, but if the counter attack made with the help of the Supreme Court were successful, Hastings would win the day.

It, therefore, cannot be denied, that Hastings had strong motives for destroying Nanda Kumar. He was the first native who stood forth as his accuser, and he was the last. They had been enemies from 1758, and so enduring was Hastings' hatred, that he wrote of him many years after his death, as the only man of whom he had ever been the personal enemy, and as one whom he detested from his soul even when compelled to countenance him. It is admitted that Hastings tried to crush him by instituting the conspiracy charge, and one has only to read the lengthy petition which Nanda Kumar and Fowke were accused of extorting from Kamaladdin, to see how futile and preposterous the charge of conspiracy was. It was

impossible for even the best disposed jury to do other than acquit on such a charge. The inducement to destroy Nanda Kumar was almost equally strong, whether his charges were true or false, though, of course, we should sympathise with Hastings if we thought him unjustly accused. But I think that no reasonable person can doubt that Nanda Kumar's charges were true. Sayer, the Company's counsel, thought that Hastings' conduct in dissolving the meetings of Council was proof of conscious guilt, and even his most devoted apologists admit that this circumstance, and also the fact that Hastings never denied the receipt of the bribes mentioned by Nanda Kumar, are some evidence against him. There was nothing in Hastings' antecedents or opinions to make it improbable that he had taken the money. He was in debt and difficulties the whole of his long life, and was always borrowing money. Larkins, his Accountant-General, and a very friendly witness, said that Hastings began to borrow money very soon after he came to India, and that he was very indifferent from whom he borrowed. In the case of a public man in India, this is almost equivalent to an admission that he took bribes right and left.\*

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\* In addition to other errors in his account of the conspiracy charge, Sir J. Stephen has committed the very serious one of misstating Kamal's representation to Hastings on the morning of the 19th April.

He says (i, 79.) that Kamal came and complained that Nanda Kumar and Fowke had compelled him by threats to sign a petition or *arzi*, saying that he had paid Hastings bribes to the amount of fifteen thousand rupees in three years, and 45,000 to Barwell, and that they compelled him also to acknowledge the correctness of a *fard*, or account of sums collusively taken by himself on account of the district of Hiji. If Kamal had made such a complaint as this, then his charge might be said to be a material traverse of Nanda Kumar's accusations, and to be an appropriate and legitimate weapon of defence against them. But, in fact, Kamal did not make such a complaint as Sir J. Stephen has described. The note with which the account of the conspiracy case begins in the report says, that Kamal came to Mr. Hastings with a complaint against Mr. Joseph Fowke, for having extorted from him by violence, accusations against Mr. Hastings and other persons, and the deposition of Kamal which follows shows that it was Mr. Fowke he accused of extorting the *fard* from him. He did not allege that Nanda Kumar was present then, or that he took any part in extorting the *fard* from him. An examination of his deposition will show that it was only the *arzi* which he said Nanda Kumar got him to write. The *arzi* contains nothing about a bribe of Rs. 15,000, and Sir James has confounded in his account two different papers, the *arzi* and the *fard*. The deposition given by Hastings agrees with the reporter's note just quoted, and shows that Kamal's complaint was mainly against Fowke. After Hastings had described the complaint made by Kamal in December, he was asked if Kamal ever made any other complaint to him. He answered "he complained to me in April last. He came to me one morning in great agony, and the collar of his *jama* was torn; he complained that Mr. Fowke had compelled him to sign an *arzi*, misrepresenting the contents of the former." Hastings was twice examined, once in his own prosecution, and again in that of Barwell. In one he did not even mention Nanda Kumar's name,

It was to Hastings' being a bad economist both for himself and the public, that his friend Lord Teignmouth attributed most of his misfortunes. Consider, too, the society in which Hastings had been brought up, and the temptations to which he was exposed. These were naively stated by him in a letter to the Court of Directors of 25th March 1775, about his stopping the tribute to the King of Delhi. "The stoppage of the King's tribute," he writes, "was an act of mine, and I have been often reproached with it. It was certainly in my power to have continued the payment of it, and to have made my terms with the King for any part of it which I might have chosen to reserve for my own use; he would have thanked me for the remainder." When he made his defence in the House of Lords, he said that he had never denied taking presents before the Regulating Act forbade it. Admittedly Nanda Kumar's charges were true as regarded one-and-a-half lakhs, and the granting of Baharband Pargana to his banian. Hastings made

and in the other, though Nanda Kumar's name came up in cross-examination, he said nothing about Kamal's complaining against him either about the *furd*, or the *arzi*. It is perfectly clear, I think, that the conspiracy cases were mainly directed against Fowke. Nanda Kumar is stated according to the report to have been found guilty in Barwell's case, but I suspect a misprint here. In the first place it is impossible to see how he could have been convicted about the *furd*: second, Hyde's notes do not seem to mention that he was found guilty, or sentenced: third, Nanda Kumar must have been in the condemned cell when the conspiracy case was decided, and there is no record in Yeandle's affidavit, or elsewhere, that he was brought out to be present at the conspiracy trial; yet surely the Judges would not try him in his absence. It is important to note that the so called deposition of Kamaladdin before the Judges on 20th April, is really a translation of a petition. The original Persian is in the High Court, and begins in the usual way with a Gharib Parwar, Salamat. It must have been written out before Kamal appeared before the Judges.

Impey was more cautious than Hastings or Sir J. Stephen, and would not allow that the conspiracy case had any thing to do with Nanda Kumar's charges. In his defence before the House of Commons, he said, "to prove that the prosecution was not carried on for the purpose of justice, but to protect Mr. Hastings from the consequence of charges against him, it is alleged that a prosecution for a conspiracy was commenced against Nanda Kumar to defeat his accusation; and that before any indictment found for the conspiracy, he was indicted for the forgery. No proof whatever was attempted to be given, nor was it ever surmised at the trial, that the prosecution for the conspiracy was commenced for that purpose. Two indictments for conspiracy were found against him and others at the same sessions in which the indictment for forgery was preferred. Whether those for the conspiracies, or that for the forgery had the precedence, I never knew, nor can I conceive it to be material."

These remarks show two things, first that Impey denied that it was thought at the time that the prosecution for conspiracy had to do with Nanda Kumar's accusations. Second, that he affected ignorance as to which indictment was first found, though the trial, printed under his own auspices, shows that the indictment for forgery was drawn out on 7th June, and that for the conspiracy against Hastings on the 19th idem.

out that the money was the ordinary entertainment charge of a Governor-General, and Sir J. Stephen thinks that this defence is borne out by Mr. Wright's evidence. He forgets that the allowance was paid to Hastings when the Nawab was a minor, and when, on that account, \* his income had been reduced from thirty-two lakhs to sixteen. There is no proof that Clive or Verelst ever drew such an enormous sum as one-and-a-half lakhs for entertainment money, and even if they did, surely when the Nawab's income was reduced by one-half, there should have been a corresponding reduction in the entertainment charges. Sir J. Stephen has attempted to show that Clavering did not consider Nanda Kumar an important witness against Hastings and that, consequently, the latter had not a strong motive for getting rid of his evidence. But it seems clear that all that Clavering meant was, that Nanda Kumar's evidence had been invalidated by his conviction.

Clavering spoke on the 8th May of Nanda Kumar's evidence being of very great importance, and a pamphlet of Joseph Price enables me to show that on another occasion, Clavering said that Nanda Kumar's revelations were of immense importance.†

\* By the Director's, letter of 10th April 1771.

† There was a Mr. Benjamin Lacam in Calcutta whom Clavering and the rest of the majority patronised. Some one, possibly Price himself, wrote to the General that his encouragement of Lacam kept respectable people from his house, and this was Clavering's reply.

SIR,—I, and my friends, Colonel Monson and Mr. Francis, have been sent into this country to redress the grievances of the natives, and put an end to the peculations and extortions which prevail. This we cannot do, except we come to know who, among the old administration, have been guilty of such enormities. Raja Nanda Kumar, who has hitherto been the Prime Minister of this country, offered himself to produce proof positive of numberless extortions.

Those he had already given in were of immense importance; but they came to hand so late, that the last ship of the season had been dispatched, though not yet gone to sea. It was in vain for us to trust any of the officers who acted under the late Government; excuses would have been found: the impossibility of sending letters down in time to catch the ships would have been quoted. In short we had nothing for it but to make our difficulties known to Mr. Lacam, who boldly undertook the task, and executed it at the risk of his life. After such proof of his attachment and desire to serve us, do you come with a story about his former friends? Why, Sir, those former friends to whom he stands indebted, and to nobody else, have in revenge for his intrepidity in our service, called upon him suddenly for the whole amount of all their bonds, which bonds were given for Mr. Hancock's concern of one-third in the chunam contract, for which poor Lacam was obliged to pay Rs. 50,000 premium."

To understand this, it is necessary to state that Lacam conveyed the dispatches on Board the *Anson* when she was lying at Ingellee, (Hijli?) in the end of April 1775. This act, and also I presume, Lacam identifying himself with the majority, by standing bail for Fowke, so enraged Hastings, that he sent his saikar to Lacam on 17th June with the peremptory message, "Rupiya mangta," I want my money, viz, the bonds, all of which

There are many indications that Hastings interested himself in the forgery case. Before it actually commenced, he was having interviews with Mohan Prasad at his town and country house. This fact rests on the authority of Nanda Kumar, but I see no reason for doubting it, especially as the statement was made long before Mohan Prasad had prosecuted Nanda Kumar. It is also in accordance with Hastings' treatment of Nanda Kumar's other accuser, Kamaladdin, whom Hastings admittedly invited to Belvedere in April. On 6th May, Nanda Kumar was committed to jail, and next morning Hastings was lamenting to his friends that bail had been refused, as people would lay the blame of this upon him. His fear was no doubt just, but the hypocrisy of his regret that bail had not been allowed was proved by his conduct next day, when he objected to any inquiries being made as to the place where Nanda Kumar should be confined. A fortnight afterwards we find Hastings gloating over the prospect of Nanda Kumar's being hanged. Once the case was set afoot, Hastings

the sarkar presented. Poor Lacam was in despair, but apparently he got Francis and others to lend him money.

According to Impey, Lacam was one of the few who refused to sign the address of thanks to the judges, and got rewarded by a contract for so doing. I believe that this account is false, for Lacam had his lime contract long before, and I am not aware that he got another. So far from Lacam's benefiting by his independence, Hastings took an early opportunity to cancel a lease which he had obtained for making a new harbour. He also had him flung into jail, and kept there for over two and twenty months. He was not released till December 1778, and even then Hastings would not give up his claim. All the other creditors, among whom were Chambers, Francis and Wheler, gave him a release, but Hastings would not, and so the other creditors empowered him to confess judgment to the Governor-General, and to pay the amount out of such effects as were to be sold. This was in October 1780, and in the December following, Lacam and his wife, for whom even Price has a good word, went home with Francis in the *Fox*.

It has been supposed by some that the majority were not justified in inquiring into such half-forgotten scandals as the "peculation and extortion" mentioned in Clavering's letter, and those revealed by Nanda Kumar, and that even if the charges were true, they should not have gone into them. This was a view enforced by Hastings and his friends, and is plausible; but the fact is that the majority were only carrying out the orders of their masters the Court of Directors.

On the 29th March, and therefore just before the Councillors sailed for India, the Court drew up a series of instructions for the new Council, and the 35th paragraph was as follows :—

"We direct that you immediately cause the strictest inquiry to be made into all oppressions which may have been committed either against the natives or Europeans, and into all abuses that may have prevailed in the collection of the revenues or any part of the civil Government of the provinces; and that you communicate to us all information which you may be able to obtain relative thereto, or to any dissipation or embezzlement of the Company's money; and that you as soon as possible form such regulations as shall seem most effectual for the remedy thereof."



discreetly withdrew into the background. He knew that the affair was in safe hands, but he emerged again when there was a question about respiting Nanda Kumar, and employed his private secretary to thwart Farrer in his attempt to obtain a respite. Immediately after the execution, he allowed Elliot to go home to defend the judges, and he violated his oath of secrecy by supplying Impey with copies of his colleague's minutes.

It is surely strong proof of Hastings' connection with the prosecution, that nearly everybody who had to do with it was a friend or dependent of his own. The Chief-Justice was a school-fellow and a bosom friend, Elliot, the interpreter, was a member of his family, and Robinson, the foreman, was a friend. Weston, too, must have been in his intimacy, for he was the servant of Hastings' old chief, Holwell. Mohan Prasad, the ostensible prosecutor, had been treated by Hastings with extraordinary favour, and Kista Jiban was Mohan Prasad's servant, and wholly dependent on him. Kamaladdin, the chief witness in the two conspiracy cases, was closely connected with Hastings' banian, Kanta Babu, and with Sadaraddin Munshi and Ganga Govind Singh.

Sadaraddin had been for many years the servant of Graham, who was Hastings' intimate friend, and was joint-agent with Maclean for Hastings in England. At the time of the trial, Sadaraddin was in the service of Hastings' other great friend—Richard Barwell.

Khwaja Petruse was an old creditor of Hastings, and connected with him by a common intimacy with Mir Qasim, and a common hatred of Nanda Kumar. Maharaja Naba Krishna was the Munshi of Hastings in his boyish days, and was so attached to him that, according to his account, he lent him three lakhs of Rupis and would not take a bond for the amount. He, too, was an old enemy of Nanda Kumar. Hazari Mal was a man whom Hastings had favoured by giving him the collections of the Purniah District, and by the institution of the Bank. Camac was one of the two military collectors to whom Hastings referred in his opening minute at the Council-Board, and with regard to whom he said, that they corresponded only with the Governor. Camac was also, I believe, at a subsequent period, Hastings' Private Secretary. Even the Munshi who compared the copy of the bond in the indictment with the original, seems to have been Hastings' servant, for probably the Sher Ulah Khan of the trial is identical with Sheriyat Ulah Khan who was Hastings' Munshi, and who gave evidence in the conspiracy case. On the other hand, Rup Narain Chaudhari, an important witness for the defence, was a man whom Hastings had

singled out as being an enemy of his own. To conclude as to my 3rd proposition ; we have Hastings's own admission that Impey hanged Nanda Kumar in order to support him. Endeavours have been made to show that Hastings' words refer to the resignation affair, but I have elsewhere given my reasons for thinking that the attempt has been unsuccessful : it is certain that his language must refer either to the resignation, or to Nanda Kumar.

It is most improbable that it can refer to the resignation, First.—Because Impey's support was not essential on that occasion as the Judges were unanimous. Supposing that Impey instead of supporting Hastings then, had gone against him, the result would still have been the same, for the opinions of the other three Judges would have prevailed, even if we suppose that, on an extrajudicial reference, Impey would have been entitled to a casting-vote. Second.—Because Impey was far from thoroughly supporting Hastings on the occasion, and Hastings was surprised and disgusted at this. Third.—Because it is impossible to show how Impey's holding that Hastings' agent had not tendered his principal's resignation, but had only stated his desire to resign, could save Hastings' honour and reputation.

4. *That Kamaladdin Khan, the principal witness in the three trials for conspiracy and forgery, was closely connected in business with Kanta Babu the banyan of Hastings, and was the intimate friend of Sadaraddin Munshi. . . . Also that Kamaladdin was a man whose word could not be believed, and who had been justly described by Clavering as an infamous creature, and by Mr. Fowke as the scum of the earth.* As Sir J. Stephen admits that Kamaladdin was a very poor creature, and one who considered common falsehood as fair play, I do not think that I need spend many words in proving him worthless. A study of his conduct in December and April, and of his depositions, is enough to prove him this.

In an article which I wrote in this *Review* on Warren Hastings in 1878, I described Kamaladdin as the benamidar of Kanta Babu. Sir J. Stephen twice, (1, 79, note, and 208) observes that the statement, if correct, is no doubt important, as if he stood in that relation to Kanta Babu, he must have been greatly under his influence, and Kanta Babu would of course be greatly under the influence of Hastings. Probably Hastings would not have admitted the truth of this remark, for his cue always was to pretend that he knew very little about his banyan's proceedings, and that it would have been improper for him to interfere with him in his business, *i. e.*, in his absorbing so much of the landed property of the country. Sir J. Stephen's remark, however, is true, for there is abundant

evidence that Hastings exercised control over his banyan. Kanta was, in fact, Hastings' right hand man, and went with him every where; for instance, he was with him at Benares, where we find Hastings dignifying him with the title of Diwan, and threatening Chait Singh's mother if she ventured to trifle with him.

At the time I made the statement referred to by Sir J. Stephen about Kamaladdin's position, I did so on the authority of General Clavering. I have since gone further into the subject, and I think that I can now establish the fact that he was Kanta Babu's *benamidar*, or *farsi*. At all events I can prove my statement that he was closely connected in business with Kanta Babu. The most striking proof of this is Kamaladdin's own statement in his third petition to Nanda Kumar. This petition begins with the words, "In the month of Baisakh 1181, (Vilayati?) Ram Prasad" Mukarjya underfarmed the Thika Khalaris from me, on account of Babu Leekenace and Nundee, giving Mr. Archdekin as his security." There can be no doubt that the name *Babu Lcekenace* and *Nundee* is a misprint for Babu Lok Nath Nandi, who was the son to Kanta Babu. Lok Nath was the person in whose name Kanta held most of his property, Pargana Baharband for instance, in the district of Rungpur. Lok Nath was a minor in 1775, being in fact a boy of about twelve years of age, if so much, yet Hastings had the hardihood to describe him, in a revenue consultation of 12th July 1774,\* as a man of substance and credit. The old records of

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\* Kamaladdin though an indigent man, unable according to Mohan Prasad, to pay off a debt of Rs. 600, was selected by Government in 1772 to be the ostensible farmer of Hijli. This was a very extensive and important charge, for not only was a great amount of salt produced in Hijli, but it also yielded a large land revenue. According to Kamal's evidence, he furnished, as farmer of Hijli, 375,000 mâns of salt, and collected yearly Rs. 75,000 of revenue. Kamal got his farm about the middle of September 1772, and as he was quite unable to manage it, he soon afterwards made it over to one Candip, or Chandrup (Kandarpa?) Das, who took it in the name of his son Chandi Charau. Kandarpa held the farm till about 24th December 1773, and then surrendered it again to Kamaladdin. This, however, was a nominal transaction, for Kamal immediately sublet the farm to Basant Rai, or Basant Ram. When Kamal got his farm in 1772, an elaborate patta or lease was executed, and in the 31st Article thereof it was stipulated, that all the thika khalaris, that is, all the saltworks in the hands of contractors in the Pargana, were to be put under Kamal's charge, and that none should be worked by individuals. It was also specified that such persons as did work thika khalaris, should be obliged to deliver up the salt at a price fixed by the Government. This is the arrangement referred to by Hastings in his deposition as prosecutor in his conspiracy case, where he says Kamaladdin, "in the month of December, complained that Mr. Fowke had attempted, by promise and threats, to extort from him a declaration, that he had given bribes to English gentlemen and mutasaddis for the grant of the thika khalaris, for the adjustment of accounts relative to them; I am not certain which. These were saltworks, not originally

the Committee of Revenue which are preserved in the Board of Revenue, are full of references to Lok Nath Nandi's salt transactions, and Hastings admitted in Council that the thika

included in the lease of the farm of Hijli, but worked by other farmers, by people brought from other parts, and afterwards given to the farmer of Hijli to prevent competition." This account differs somewhat from that given by the Committee of Revenue who had the lease before them, and who, no doubt, gave the more correct version of the affair. The Committee go on to say, that on 11th February 1774, Kamaladdin contracted to supply 75,000 mâns of salt to Government, and they observe that the express condition of this contract must necessarily have been, that all the thika khalaris should be yielded up to him; that in March following a general order was given to the Naib Diwan to deliver over all the thika khalaris to the contractor, and to oblige him to repay any advances the proprietors might have made, with an annual interest of twelve per cent. These thika khalaris had apparently been in the hands of several persons, and it appears from a letter by Nanda Kumar, dated 20th May 1774, that he had two of them in the name of his son Guru Das. Kanta Babu was, however, the great holder of them, for he had no less than 401. (Probably the real number was 400, and the one was added to prevent the number ending with a cypher.)

Kanta Babu held these works in the name of his son Lok Nath, that is, the Leekenace of Kamal's petition, and so all the petitions to the Committee of Revenue about them are in the name of Lok Nath. The records of their proceedings are full of his complaints and of counter charges by the salt agent, Mr. Archdekin. The dispute arose in this way. The arrangement with Kamaladdin making all the thika khalaris over to him took place in February 1774, and therefore in the middle of the working season. Lok Nath complained that by this time he had made 26,000 mâns of salt, and had given advances for 17,000 mâns more. He therefore asked that 43,000 mâns should be made over to him. Upon this the Council by a letter, dated 16th August 1774, and signed by Hastings, Graham, and others, directed the Committee of Revenue to make over 26,000 mâns of salt to Lok Nath Nandi at Chitpore. "On its being weighed off to the Company there, you will please to settle with him on the same terms you agreed to allow him in the proceedings of 1st April last; and, for the remainder of the salt which has been manufactured from his advances, you will oblige the farmer to whom it is to be delivered, to reimburse Lok Nath Nandi the amount of those advances with interest." It must be admitted, therefore, that even if Hastings' account be true that Kanta was much aggrieved by the salt-works being given in farm to Kamal, his patron took care that he should be indemnified as much as possible. There were other people besides Kanta who had made salt before Kamal got his farm. *e. g.*, Baneshwar Ghose, but I do not find that he got delivery of the 5,000 mâns which he said he had made. Next month there is a letter from Lok Nath Nandi, dated 23rd September 1774, offering to buy all the thika salt of Hijli, Maisadul, and Tumlook, to be delivered to him at Sulkea at Rs. 155 tukka per mân of 82 S. W. including the duties.

In reporting on this proposal the Committee say that salt now sells at Calcutta at Rs. 190 Arcot per mân of 82 S. W., and that it is falling in price daily. From a letter of 20th January 1775, we learn that Lok Nath withdrew from his proposal on account of a dispute about "basket weight." Among the Board of Revenue records, there is a long letter from Archdekin the Agent, complaining of the high handed proceedings of Lok Nath Nandi's gomasta, and of his refusing to take over the 26,000 mâns on the ground that he expected orders for 40,000. In the

khalaris belonged to Kanta before Kamaladdin got them, though he maintained that Kanta had been aggrieved and not benefited by Kamaladdin's farm. The translation of Kamaladdin's petition was made by Chalmers the official translator, so that there is no reason to doubt its correctness. We have therefore a clear statement by Kamal, that Kanta Babu was his under-farmer, under the style of Ram Prasad Mukarjya, and we know from Barwell's letters, and from statements of Kamal, to the Committee of Revenue, etc., that Kamal's under-farmers were the real beneficiaries of the farms. But recent researches which I have made in the office of the Board of Revenue, enable me to carry the matter still further, though they compel me to enter into wearisome details which I append below.

There is ample evidence that Kanta Babu was closely connected in business with Kamaladdin, but this is not all. I believe that General Clavering was quite right in saying that the two were partners, though they may have afterwards quarrelled. In my article in the January number of this *Review*, I said that apparently Kanta had nothing to do with the Hijli farm, but I have since been led to form the opinion that he had. Basant Rai, who was Kamaladdin's Katkinadar, or sub-lessee in the Hijli farm, appears to have been a dependant of Kanta. He is repeatedly called Basanta Ram by Kamaladdin and others, and I believe that he is identical with Basant Ram Diwan\* who was a servant of Kanta.†

proceedings of 21st June 1774, we have Lok Nath's petition giving his account of the dispute. The matter was not settled for a long time, and on 28th May 1775, we have a letter from Archdekin, reporting that Kanta Babu's gomasta had taken away from Rasulpur Ghât 8,000 mâns of salt more than he had Charchittis, (passes,) for.

\* Some support to this view is given by the President of the Committee of Revenue remark of 25th October 1775, that Basanta Rai was an old Matasuddi.

† He is referred to as such in a petition, apparently, from the Raja of Bardwan, which is preserved in the proceedings of the Committee of Revenue of 5th June 1775. This petition says that the Pargana of Sathsika in Bardwan, was settled in 1178, (1771) with Bistu Charan Nandi the nephew of Kanta, and that in 1180 Kanta gave a four years lease, Katkina, of it to Basant Ram Diwan. Complaints were made by the rayets to Kanta of Basant Ram's oppressions, and then he dismissed him.

It would also appear that though Kanta held his 401 salt works in the name of Loknath Nandi, there was a Benami below a Benami, a double veil in short, and that Loknath's Khalaris were held by, or in the name of, Basant Rai, otherwise Basant Ram. I infer this from a petition by one Shama Chakrabatti of June 1775, where he says that he held the Thika Khalaris in partnership with Basant Rai, and complains that he had been compelled to surrender them to Kamaladdin. Basant Rai, otherwise Basant Ram was a real person, and appeared before the Committee; indeed, he was too real to have the farm in his own name. He too had a Farzi, viz., his nephew Ajib Rai, a child of five or six. The Board of Revenue records

5.—*That the trial was unfairly conducted, and that, in particular, the Chief Justice's manner was bad throughout.*

For detailed proof of this point I must refer to the body of my articles. To the points there urged, I may here add, that Nanda Kumar was probably, to some extent, taken by surprise by the charge of forgery. The recognizances taken from Mohan Prasad, (of 7th May) show that the only charge then made was one of feloniously uttering as true, a false and counterfeit writing obligatory to defraud the executors of Ballaki Das. I contend, also, that a trial in which the Chief Judge, the interpreter and the foreman of the jury were intimate friends of the concealed prosecutor could not be fairly conducted. Nanda Kumar objected to Elliot's interpreting, evidently on the ground of his intimacy with Hastings, but Impey roughly repelled the objection. Elliot was not a member of the Court, and could only have been present at the commencement of the trial by previous arrangement. I submit that Impey's manner was bad on this occasion, and he made matters worse by his sequent false assertion, that Elliot served voluntarily as interpreter. Impey showed his bias again when he censured Farrer for objecting, very reasonably as I think, to the jury's off-hand rejection of the

contain most elaborate reports about Kamiladdin's balances, and the action of the Supreme Court in releasing him. Copies of the Court's proceedings are given, and it seems to me that the Court interfered in a most monstrous manner. Not only did they twice release Kamil, but they laid it down that the Committee must proceed against the under-renter, Basant Rai, before they took action against Kamil. The only ground for this was, apparently, that Government had received rent from Basant Rai; but as the President of the Committee pointed out, Basant had always made the payments on account of Kamiladdin's farm. It is one of the commonest things in Mofassil practice in India for an under-tenant to pay the rent to the zamindar, but it is never considered by our courts that the zamindar, by receiving such rents, forfeits his recourse against the original lessee. Baiwell chose to represent the matter as an instance of the majority's revenging themselves on Kamal, but it was the Committee of Revenue, of whom John Shore was one, who proceeded against Kamal. Nor was it a simple question of refusing to acknowledge Basant Rai, or to receive the rents from him. He might be a man of substance, as Baiwell says, but he was no more willing to pay the rent than Kamal was, and made all sorts of objections. It clear that when once Government was obliged to give up its pursuit of the original tenant, Kamal, there was no hope of realising the debt, and accordingly it never was paid. At one time there was an arbitration between Kamal and Basant, and Sadaraddin Munshi was the arbitrator—another proof of his being mixed up with Kamal. On a subsequent occasion, when there was no question of protecting a revenue defaulter who was also a serviceable tool of Impey and Hastings, Impey seems to have changed his view about the powers of the Committee of Revenue, and in turn allowed them to imprison revenue debtors. I use the guarded expression "seems," because the judgment in *Ram V. Badaruddin* shows that the judges declined to decide if the Committee had power to imprison. What the judges claimed to, was a power to inquire if the imprisonment was justifiable.

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Persian letters. His manner, too, and that of Hyde and Lemaistre were so bad to the witnesses for the defence, that Nanda Kumar wanted to give up his defence and submit to his fate. It is clear that Farrer thought that Nanda Kumar had reason for despair, as otherwise he never would have entered on the delicate task of remonstrating with the judges (for this was, in fact, what he did). Why, to, did he avoid giving Nanda Kumar a direct answer if he thought his idea groundless? Sir Robert Chambers evidently thought that Nanda Kumar's complaint was just, for he sent him a private message through Farrer, that every question he had, or should, put to any of Nanda Kumar's witnesses, had been, and should be, as much in support of as against them. The record of the trial shows how minute and inquisitorial the judge's examination was, and it is clear from Farrer's account, that they had made up their minds from the beginning that the defence was false. What they said to Farrer was, that his witnesses seemed to have been prepared, and that the nature of the defence was suspicious after the plain tale told by the prosecution. It appears from Sir Gilbert Elliot's speech that Impey actually kept one of Nanda Kumar's witnesses seven hours under examination.

Sir Elijah's charge was, I think, unfair with its sneering comment about the number of witnesses to the bond produced by the defence.

His manner to Farrer about the recommendation to mercy was admittedly bad, and so also was his scornful rejection of Mubarak Ad-daula's petition.\*

### 6.—*That the jury was prejudiced and incompetent.*

Their incompetence is patent, because they were Englishmen, or Eurasians, and were trying a native, when for the most part, they did not know the language in which the evidence was recorded. That they were prejudiced is shown by their remarks about the Persian letters, and by the conduct of their foreman with regard to Farrer's application for a recommendation to mercy. It has been said that the jury was returned by Macrabie, the brother-in-law of Francis, but Macintosh, writing from Calcutta in December 1779, states that two gentlemen whose initials he gives, were

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\* Sir Elijah's coarse and indecorous manner on the bench is shown by his telling the story about the Pope's Nuncio in the proceedings about Radha Charan. The story might be a good one in itself, but it was improper to tell it from the bench, especially when by doing so Impey implied that Radha Charan was guilty of an offence for which he had not then been tried. Sir Elijah seems to have been a man of coarse manners. His son's memoirs give some indication of this, and Wraxall says that he knew him personally, and always entertained strong prejudices in his disfavour, prejudices which neither the expression of his countenance, nor his manners tended to dispel.

struck off the corrected venire of the sheriff, on account of their being persons of unshaken integrity. Price professes not to know to whom the initials refer, but he admits that some persons were removed from the list, though he says this was done to prevent interruption to public business. However this may be, I think that the defenders of Impey and Hastings should explain how it comes, that so many of the twelve jurymen were obscure men. A trial such as that of Nanda Kumar, the prime minister of Mir Jafar, should have been before men of more standing. Poor Nanda Kumar asked to be tried by his peers. The Court asked, whom he considered his peers, and then Impey said that he could only be tried by British subjects. But if, as the judges then thought, all inhabitants of Calcutta were British subjects, on account of Calcutta having been conquered by Clive and Watson, why, were there not some native inhabitants of Calcutta on the jury?

(The 7th point has been already discussed.)

*That "the execution was iniquitous, even on the supposition of Nanda Kumar's guilt, and that it was the result of a plot to stifle inquiry into bribery and corruption.* As everybody, including Sir J. Stephen, admits that the hanging of Nanda Kumar was wrong, i.e., that it was at least a mistake, I need not say much about this point. When it was proposed to impeach Impey, he was only saved by his brother lawyers and by the friends of Hastings and Pitt. He had a majority of eighteen out of a house of 138, but in his majority were Barwell and Major Scott.\*

Sir J. Stephen ascribes Macaulay's attack on Impey to his inheriting the whig-hatred of Impey. But Wraxall was not a whig, and yet his opinion of Impey was so bad, that he left London in order to avoid giving a vote. He adds that if he had been compelled to vote, he would have voted with the minority, and that he believes that two-thirds of the members who absented themselves, would have done the same. Even Impey's lawyer friends made some damaging admissions in their defence of him. Thus, both Macdonald and Arden, the

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\* As Sir Gilbert Elliot wrote to his wife, "we were beat yesterday, but our defeat is very like a victory. Sir E. Impey had his own personal friends, the lawyers, in a body—that is to say fifteen of them out of twenty who were present—the whole Indian corps, Lord Lansdowne's squadron, and the whole force of the Ministry; and with all this he could raise a majority of only eighteen. The numbers were 55 to 73, and we lost Francis, who could not vote from a point of delicacy, and also Sir George Cornwall, who was in the chair." This quite agrees with Wraxall's remark that, if after deducting the personal friends of Pitt and Hastings, we calculate Impey's majority, we shall find it reduced almost to a nullity. Well might the same author say, that Impey owed his security to his profession, and that though the result might be deemed an escape, it could not be denominated a triumph.



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Solicitor-General and the Attorney-General, though they spoke and voted in Impey's behalf, admitted that they would have respited Nanda Kumar if they had been trying the case. Wraxall justly says that these admissions were a moral condemnation. A plain question will perhaps set the matter at rest.\* Does any one doubt that if Nanda Kumar had been respited, the Court of Directors would not have procured a pardon for him? Certainly they would have acted as they did in Radha Charan's case, and no reason can be given why the judges did not follow the precedent set on that occasion. It is absurd to say that Nanda Kumar had been warned. He was not in Calcutta when Radha Charan's case occurred, and he was probably in confinement when Government recommended him to mercy. There is no evidence that he ever heard of Radha Charan's case, for Price's story, that he signed the petition in his favour, is a fiction.

9.—*That Sir J. Stephen has made grave mistakes in his account of the trial, etc.* For proof of this point I shall only refer to my articles in the present and preceding number of the Calcutta Review *passim*, and to appendix A. of the January number.\*

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\* Sir J. Stephen (II, 90) quotes a remark of Elliot to the effect that Sir J. Johnstone was drunk, and says: "some light is thrown on the reference to Sir J. J.'s being drunk by a passage in Wraxall." According to Wraxall, Johnstone said that the House had beheaded a king, hanged a peer, and shot an admiral, and was now trying a Governor-General, and that he did not see why it should not put on his trial a Judge and a Chief Justice. Sir J. Stephen then remarks, "Sir J. Johnstone must have been very drunk, indeed, if he thought the House of Commons had anything to do with the execution of Charles I. or of Lord Ferrers, or of Admiral Byang, or that it was trying Hastings."

This shows the evil of second-hand information. If instead of referring to Wraxall who was not in the House but reported from hearsay, he had gone to the Parliamentary History (Vol. 27, 485) he would have found that Johnstone said nothing about the House of Commons. His speech is so pithy that I quote it in full. "Every argument he had heard confirmed him in the idea that the question ought to be supported. The carrying it, he conceived, would not amount to a trial of Sir Elijah Impey, but would be in the nature of a grand jury finding a bill of indictment, that was to put a person on his trial. To this trial Sir Elijah, in his mind, ought to be sent. The dignity and independence of our laws respected neither rank nor situation. They (the laws) had, unfortunately beheaded a King, they had hanged a Lord, they had shot an Admiral, they were now trying a Governor-General, and he saw no reason why they should not have an effect on the other profession, that of the law, and put a Judge and a Chief Justice on his trial."

Then as to the allegation of drunkenness, Elliot says that at 10 P.M. "a little disturbance happened by Sir J. Johnstone's being drunk." But the debate went on till 7-30 next morning, and Johnstone spoke near its conclusion, so that even if drunk at ten, p.m., he had time to recover before speaking. As he voted against Impey, and as his speech seems to have been a really good one, it is fair and important that the real facts should be known.

One word in conclusion: Sir J. Stephen says that whatever is true of Impey is true of the other three judges of Nanda Kumar and of the twelve jurymen, and he asks "why should sixteen persons commit a frightful crime without a motive?" Again he says that the "effect of Elliot's argument is, that four judges and twelve jurors unanimously agreed to commit a fearful crime in order to intimidate natives from complaining of Europeans."

I shall not say that this is the style of eloquence which Sir J. Stephen compares to mouldy wedding cake, but I am sure that it is of the species popularly known as Old Bailey. It is quite in the style of the gentleman who gets up to defend some hoary "fence," and begins, Gentlemen, I appeal to you on behalf of my injured client. The charge against him has been carried on with a malignity which is unparalleled. Gentlemen, it has ceased to be a prosecution, it has become a *per secution*"; and then he thunders on the table. Sir J. Stephen knows perfectly well that this tall talk about sixteen murderers is irrelevant. Nobody says that the jury knowingly condemned an innocent man. I say that they were prejudiced and incompetent, but I do not for a moment assert, or insinuate, that they violated their oaths, and found a man guilty whom they believed innocent. I do not even say that Impey knew that Nanda Kumar was innocent. I do not think that he was patient enough, or had enough knowledge of the circumstances to say whether Nanda Kumar was guilty or not. Probably he did believe him to be guilty, and I have no doubt that poor, narrow-minded, and perhaps, half-deranged Hyde was of that opinion. What I, and every honest man who knows the facts, blame Impey for, is that he allowed himself to be prejudiced by his partiality for Hastings, and his hatred of the majority, and that he hanged Nanda Kumar in order that speculators in general, and his friend and patron Hastings in particular, might be safe.

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The above is not the only instance in which Sir J. S. has misstated the language of the accusers of Impey and Hastings. He tells his readers (I, 28) that Burke said it was "foolish and indecent in Lord Coke to call Ralcligh a "spider of hell." But that "had he been a manager on this Hastings' trial, he (Coke) would have been guilty of a neglect of duty had he not called the prisoner a spider of hell." Now it is true that the editor of Hastings' trial quotes this and other extravagant expressions as having been used by Burke, but the same editor gives the passage very differently in his report of Burke's speech (p. 121) Sir J. S. must know that Burke denied having used any of the expressions attributed to him, and that Francis declared that he had attended the trial with the greatest diligence, and that the expression "spider of hell" was never applied by his Right Hon'ble friend (Burke) to Hastings. Law (not Hastings' counsel, but, I believe his brother) insisted that Burke had used abusive language, etc., but he relied only on rumour, and did not say that he had heard it.

## APPENDIX D.

Mohan Prasad's deposition to the preliminary inquiry.

Deposition of Mohan Prasad taken this sixth day of May 1775, before us Stephen Cæsar Lemaistre and John Hyde, esquire; Justices of the Supreme Court of Judicature at Fort William in Bengal; who being duly sworn on his oath saith—that he is attorney to Gānga Vishnu who is at this time so ill that he cannot go out of his house. That Ganga Vishnu is surviving executor of the will of Ballaki Das, and also his heir as this deponent understands; that about three years past Kamaladdin came to him, and this deponent demanded of him Rs. 600 which were due to the executors of Ballaki Das, and Kamaladdin desired him to be patient, for he had then no rupees; this deponent then said to Kamaladdin, do you remember sealing as a witness any bond to Ballaki Das? To which Kamal answered he never did sign any such bond; that at the time he put the question to Kamaladdin, he showed him a copy, which this deponent then had from the Mayor's Court, of the bond now produced in the Persian language, marked No. 1 W.M.; that this deponent suspected this bond to be forged, because he had lived in great intimacy with Ballaki Das, and never heard him say that he had given any such bond, and he did then believe, and now believes if he had given any such bond, that he would have told this deponent of it. And this deponent further saith; that about four months after the last mentioned conversation, Kamaladdin told him that Nanda Kumar had desired three things of him, Kamaladdin; first to say that the signature of his name to the bond in question was his signature, and to swear to it if he was asked at the Adalat; secondly, to bring some accusation against Mr. Lushington; thirdly, to bring some accusation against Basant Rai. All which said Kamaladdin answered he could not do, because of his religion; that about three years past a prosecution was begun against Nanda Kumar in the Court of Kachari; and this deponent further saith that the custom of Calcutta is to have three witnesses to sign as to bonds.

Then follows Mohan Prasad's signature in Nagari: sworn before us Lemaistre and Hyde. The indorsement is the King *versus* Nanda Kumar, felony.

H. BEVERIDGE, C.S.

## ART. VI.—LEGISLATION IN INDIA.

WHATEVER views may be entertained about the Central Asian question and the merits or the locality of the scientific frontier, most of us will admit that our administration in India ought to be as faultless as it can be made at a reasonable expense, and that the people should not be unnecessarily harassed or induced to draw contrasts, unfavourable to us, between their own and other Governments. Some of us, indeed, may be inclined to go so far as to urge that our best defence from foreign aggression, whether open or insidious, will be found, after all, in widespread content and prosperity within our own territories. No doubt a complete knowledge of the facts of other administrations would be far from unfavourable to ourselves. Nothing is easier in any part of the world than to find a grievance if a man goes resolutely to look out for one. Those who return to England after years of exile find the country teeming with abuses, which are admitted but endured as a matter of course ; and India has of late years become the happy hunting ground for the grievance-monger who finds a supply specially adapted to his own consumption and to ventilation in another country where verification is not possible and strict accuracy not required. Still, there are few countries in Europe in which there is so little absolute misery, and so much individual liberty, to go where you please and say or do what you please, without question, as in British India. But the facts of foreign administrations will not be completely known except to those who are subject to them, and it is only human nature to contrast the apparent plums in other puddings with the undoubted dough allotted to ourselves. The unknown will always be the magnificent, and our Government must be content to be judged by an ideal standard taken from some Utopia, with a real designation perhaps, but, for all that, as unreal and unsubstantial as the shade and water which allure the thirsty traveller in the desert and fade away at his approach. Such considerations are not unprofitable if they lead us to remove or modify any clear blot in our system, and it is with this object that I venture to offer a few remarks on a matter in which many years experience convince me that reform is urgently needed.

The present system of legislation in India was established by the Indian Councils Act of 1861. The object of that Act was to improve the previous system, which had been on its trial since 1854, and to impart greater efficiency to the executive functions of the Supreme and Local Governments. One

main object of the Act, well understood in India, though not declared in its provisions, was the abolition of Sir Barnes Peacock, who, as a judge of the Supreme Court, brought to the Legislative Council an amount of practical experience which few of our legislators before or since have enjoyed, and which involved a standard of thoroughness and precision somewhat irksome to his unprofessional colleagues. The result was that the deliberations of the Council were prolonged to an extent which Lord Canning feared might prove inconvenient in the great work of reconstruction which lay before him after 1857.

It should not, however, be supposed that the former Council was inefficient, or that Sir Barnes Peacock's action bore any resemblance to the concerted intractability of an Irish patriot. On the contrary, the Council did excellent work, in which may be included the passing of the Penal Code, the Codes of Criminal and Civil Procedure, and the general Rent Law of 1859. The new Councils Act was intended to restore the power of legislation taken from the minor Governments by the 3rd and 4th Will. Cap. 85. and to reserve the Supreme Legislature for matters of general administration, affecting the Empire at large. Local legislation was, as far as possible, to deal with local legislative business. Great stress was laid on the different treatment required for widely different provinces, and uniformity, not warranted by identical requirements, was by no means to be encouraged. Hence local legislation in the Supreme Council was to be the exception. The subjects, which form the line of demarcation between local and imperial business were clearly specified, and I would suggest, *en passant*, that those who are interested in the inevitable problem of Home Rule in some shape for Ireland, and perhaps for other sections of Great Britain, will find at hand a useful analogy in the Indian Act of 1861, together with the recorded experience of its working for a quarter of a century. The new features in the Act were that it associated independent Europeans and Natives in the work of legislation, and introduced (it must be admitted to a very limited extent) the principle of representation. The Council was to be assisted by additional members, selected by the Viceroy from the official and non-official classes in different parts of the country, and was to hold periodical sessions for the discussion of projects of law prepared by the proper officers, under the supervision of the Executive Government. Lastly, a provision was made for the appointment by the Crown of two members of the Council, one of whom was to be a barrister, while the other has, in practice, presided over finance. Such, briefly, was the constitution framed for the existing Council, and on the same model local Councils were to be established

at once in Bengal, and "without delay" in the other minor local Governments. Nothing can be more clear from the Act, and from the Despatch which introduced it, that legislative business was, as a rule, to have its initiation in the executive and that local business was to be disposed of in the local Councils. It should also be noted, as doubts have since arisen on the point, that the additional members were not intended to be a mere chorus of acquiescents, but were, "of course to exercise" their independent judgment in regard to matters brought "before them." Thus, to those who are quite ignorant of the subject, it may be explained that the Legislative Council was intended for deliberative purposes only, under the Viceroy as president, and that the nucleus of it was the Executive Council, comprising the Viceroy, the Commander-in-Chief and the Members in charge of the five departments of Finance, Legislation, Home, Revenue and Public Works.

From 1861 to 1873 the business of the Supreme Legislative Council, so constituted, formed a branch of the Home Department, which had a member of its own in the Executive Council. Thus, the Home Department found itself under two authorities—its own executive member and the barrister appointed under the Act of 1861, and since called the legislative member. This was in some respects inconvenient, as business increased, and the usual remedy for all inconveniences in India is to constitute a special department to deal with them. In fact, in India, departments are to administration what Companies of limited liability are to trade. They create a speciality, or as the French say *exploit* it, and under a clever, energetic manager, soon extend the sphere and scope of their operations, which grow and swell from the smoke on the sand into the genii who overshadow the shore. Lord Northbrook foresaw this tendency, and when, in 1873, he constituted the legislative as a separate department, did his best to confine it to the lines of the Indian Councils Act of 1861. He expressly and formally recorded, that it was not to be an originating or initiating department; its proper function would be to clothe with a technical shape, projects of law of which the policy had been affirmed by the executive. Hence proposals for legislation emanating from the local Governments were to be addressed, not to the new department, but to that department which had the executive control of the subject matter, and when the question had been thoroughly threshed out by the executive, then only was it to be treated as ripe for legislation. To prevent any misconception on this point, it was further ruled that, if by accident any proposal for legislation should come, in the first instance, to the legislative department, it has to be at once transferred to the proper department. These orders were clear and precise, and

would have confined the new department strictly within the groove designed for it by the Act of 1861 ; but they were soon lost sight of. The legislative member, fresh from England, and necessarily ignorant of the needs of India, and still more of the grades of tribunals which administer the law, could not but contrast the scantiness of the Indian statute book with the vast stores to which he had been accustomed at home. Was it any wonder that he should set vigorously to work to fill up the void, especially when he found himself supported by a body of extremely able secretaries eager to justify their recent creation ? On all questions of law, and *a fortiori* of English law, the legislative member was, of course, supreme, and the so-called deliberations of the Council began to resemble those monopolies of the conversation familiar to the English Sunday pulpit. Fresh laws could readily be adopted, and the process of adoption was as simple as the adaptation of French plays to the English stage. It was only required to take an English, Prussian or New York Act, alter its preamble and termination, with the necessary *mutata mutandis* throughout, introduce it to the Council, where, the more recondite the subject matter the less probability of discussion or dissent, and then to declare it applicable to all British India. If difficulties arose or were suggested as to details, a clause would be inserted, that on them the local Government would make their own rules. In this way the almost mechanical process of turning out Acts faultless until actually applied, went on merrily at the rate of about thirty every year. In no part of the world, except under pure despotisms, has there ever been such a paradise for the legislator as India since 1877. Well may the English, French or German legislators sigh over the comparison. They must master voluminous evidence and elaborate reports, consult and conciliate a vast variety of opposing interests, higgie over a phrase, encounter real and often vexatious opposition, and then be content after all with a compromise very inadequately representing their original intention. None of these cumbrous and dilatory preliminaries are required in India. The Anglo-Indian legislator of the present type is free from all anxiety about the working merit of his own productions. His razors are made only to sell. His work ceases in the Council Chamber, and the conclusion of one Act is the signal for the initiation of another. If, as Sir H. S. Maine affirms, the danger of legislation is in proportion to the ease with which Acts can be passed, and if in no part of the world can Acts be passed so easily as in India, the question arises, how is it that measures which are the product of a single mind, or at most of a single department, only concerned with the production of Acts and not with their working, are yet brought into the world with the stamp and authority of a large and

carefully constructed deliberative assembly? The answer is because, under the present system the policy of legislation is not necessarily discussed at all, but is taken for granted. It is only after the affirmation of the policy of legislation, that outside opinion is invited on the details, and officials in India are far too heavily occupied to find time for re-opening a question which has apparently been decided. Moreover, under a despotism, the straight and narrow road of opposition does not lead to advancement. There the opposition never comes in; whereas a facility for opportune concurrence confers wings to the merit which hails and follows each rising manifestation with the simple or simulated faith of the shepherds in Bethlehem.

And not only has the legislative department since 1877 propounded on its own motion a vast variety of Acts for the whole Empire, but has monopolised, in its consuming zeal, much of the local business of the different Provinces. Far from stimulating the creation of the additional Councils prescribed in 1861, it once seriously contemplated the extinction of the existing minor Councils. It has interfered in the delicate and dangerous question of land tenures in the North West, Oudh, the Punjab, the Central Provinces, and even in Lower Bengal. As regards the Central Provinces, the Bill first propounded was so outrageous in its unsuitableness, that after exasperating the most placable and apathetic of all our Indian subjects, it was withdrawn in a chorus of reprobation. It is true that the first Bill was succeeded by another, which was carried through the Council by a gentleman of unrivalled experience in both general and local Revenue detail, but even he would admit that the Act as passed was not all that he would have wished, and that a more perfect Act might have been hammered out in the locality concerned, had there been any machinery to do so. As regards Bengal, there has been no adequate explanation of the reasons why an essentially local Act was dealt with, in the first instance, in the Supreme Council, or why discussion could not have been more appropriately exhausted in the Lower Council, leaving the Supreme Government to adjudicate upon the threshed out points of controversy. Instead of that, the reserves were hurried into the van, and the penalty paid has been excessive delay, wide-spread irritation, and, as some experts hold, a mutilated and incomplete measure. Surely at this date there is no need of argument to prove that local business will be better done locally than by any distant centralization however constituted.

The contrast between the standing orders and the actual practice as to the initiation of legislation and the disposal of local business, soon became so glaring, that it was necessary to give it some formal justification. Accordingly, in 1877,



Lord Lytton's Government was induced to pass a short Resolution which practically opened up to the legislative department an unrestricted field of legislative initiation. Whether Lord Lytton foresaw the consequences of signally cancelling his predecessor's orders is not clear, but there is no question that among those consequences must be ranked the unhappy dissensions of the last three years of Lord Ripon's régime, as well as the somewhat fantastic developments simultaneously sprung upon the country under the much abused title of Local Self-Government. It is not a little remarkable, that the main agent in directing the attention of Parliament and the English public to the abuses of legislation, consequent on his own policy, was Lord Lytton himself, in his admirable speech in the House of Lords in the spring of 1883.

What I wish to urge is, that under the orders of 1877 which are still in force, the scheme of legislation designed by the Indian Councils Act has been superseded by a far wider scheme; that under the new scheme the country is being flooded with Acts which, in many districts, are either a dead letter or mischievous almost in proportion to their operation, because many of those who have to administer them, and much less the people, cannot understand them as they are in some instances impossible to translate into any spoken vernacular; that local legislative business is not yet done locally, because the local Councils, which were in 1861 to be constituted "without delay," have not yet been constituted in the minor local Governments; that the Supreme Council, however selected, and however competent for really Imperial business, has neither the knowledge nor the time for local business which might be all done in local councils, where the doing of it would be really a part of local self-Government and of political education of the highest kind; that the rapid introduction of new laws bears very hardly upon the great mass of the people, who can no longer manage their own affairs, as they have been wont to do, and puts an unfair premium on the study and practice of law; that native customs cannot hold their own in the competition to which they are now subjected, but are being rapidly displaced by a legal system which is admittedly the most anomalous, complex, and "incognoscible" in the civilized world—English law, pure and simple.

This is a grave indictment against our administration, which I should hesitate to prefer, unless I were assured of its truth by close observation and many years experience, and unless I were supported by the Indian Councils Act, and above all, by the great authority of Sir H. S. Maine. In the reported proceedings of the Supreme Council in

December 1866, an instructive speech of Sir H. S. Maine will be found, defending the Council from the charge of excessive legislation, but admitting that "there could hardly be any censure too heavy for the Council if it really did legislate with incaution and precipitancy;" and as regards the introduction of English Law,—“one of the most difficult and cumbrous systems in the world” that it would be a “most intolerable hardship” if 250 millions of people should have their civil rights defined in a system which they cannot understand, and which is contained in records not accessible to them. The point for consideration is, whether instances of incautious and precipitate legislation in India can be pointed to, and whether the people are, indeed, subjected to the hardship which Sir H. S. Maine denounced. It would be a mockery to ask those who are familiar with the real story of the Ilbert Bill, whether it was not both incautious and precipitate, for, if words have meaning, that must be admitted even by the most earnest supporters of its principle. I have no wish to revive the smouldering embers of extinct controversy, as the only connected point of present interest is, whether that Bill was not an isolated blunder, but the outcome of the present defective system of irregular initiation. To argue that the measure had an executive origin, because the Legislative Member who introduced it is also a Member of the executive council, is a quibble only worthy of the pluralist in the story of the Mikado. I am content to leave the Ilbert Bill and to rest the argument on the more solid ground of other instances of the same system. The only difficulty in the selection of instances is the *embarras du choix*. I will, however, take the Specific Relief Act of 1877 and the Easements Act of 1882.

It would be hardly an exaggeration to say that until 1877 no one in India, barring barristers trained in England, had ever heard of the legal term, specific relief. When Sir Arthur (now Lord) Hobhouse introduced the Bill, to the best informed audience in the country, so ignorant was the Council of the meaning of even the title of the Bill that he was forced to explain—and the explanation is extant—that the measure had no concern with the relief of the scarcity then prevalent in Madras. Of course, therefore, there could be no discussion, for it was a case of *ubi tu pulsas Ego Vapulo tantum*, and, equally of course, the Bill passed, and was declared applicable to all British India. Will any one maintain that a measure so passed by a Council which knew nothing about the Bill, and by an introducer who knew nothing about the people, could be justified by any theory of legislation? I can say from experience in a Court of Appeal, that

after eight years of its operation, many of those who have to administer it are still quite ignorant of its provisions, and that to the great mass of the people it is a dead letter, or being understood only by the pleaders, opens opportunities of sometimes vexatious litigation. Would not the measure have been far more warrantable had it had any real connection with the relief which its mover disclaimed; and as it had no such connection, was there not a strange but true analogy between the Council so engaged and the Council of Laputa which busied itself in scientific frivolities, while the people around were dying for food and clothes?

Take the other more recent instance: How many civilians prior to 1882 could have explained the nature of an easement or any vernacular term for it? To this day, such an enquiry, especially among the older civilians, whom the examiner has long ceased from troubling, would elicit curiously discrepant answers. In fact, neither the title of the Act nor its chief provisions can be translated into any vernacular, without an adaptation of English terms analogous to the pigeon English of the Chinese sea-board. No executive officer ever dreamt of proposing such a measure. On the contrary, one Lieutenant-Governor seriously replied, when asked what number of troops were required for the protection of his dominions, that if the legislative department continued to harass the people with such Acts, he must reconsider his requirements. Objections of this type, of course, failed to stop the torrent of legislation at the fountain head, but the local Governments, grown wary by experience, still managed at the last moment to divert its course. One after another of them declared, that however excellent the Act might be in the abstract, they individually did not want it, and so the operation of the Act was accepted only by the more courtly representatives of Madras and the Central Provinces—notoriously the most backward parts of the Empire—and for the tiny community of Coorg, which by a curious anomaly is still directly subordinate to the Government at Calcutta. The restriction is a significant comment of the necessity of the Act at all. It is not required by the European community at Bombay or Calcutta, or by the highly intelligent natives there resident—the Parsis or Bengalis—but it is enforced among the rude Gonds and Bhils of Central India, and among a fraction of the wild mountaineers of the Southern peninsula. Will it be maintained that the Indian Councils Act contemplated measures being passed in advance of requirements, and then being rejected like misfits at a ready-made store? What would be thought of an English Act passed for Great Britain and Ireland, and then limited to the crofters of Skye? The analogy fails to show the anomaly of what has been done in

India, because, in no part of Great Britain can any community be found so low in the scale of civilization as in the Central Provinces of India. I know of whole villages where the current vernacular has no written character; where there is no currency, and all the resources of the village cannot raise change for a rupee; where men and women, on their rare appearance in court, are addressed even by natives through an interpreter, and are sworn by "the black dog;" where on the occasion of an epidemic, the collective wisdom of the community will seize on an old woman supposed to be connected with the visitation, and will pound her to death in a tank. Such are some of the Gonds, who are counted by hundreds of thousands. They are mostly agriculturalists of the roughest type, and if one of them, now finds closed the familiar pathway to his immemorial field, he must be told in English, which he cannot of course understand,—and yet he can be told in no other tongue,—that he must sue the dominant owner for a release of the servient heritage under chapters IV and V of the Easements Act. The simple savage will reply that he is a poor man, and knows nothing of easements, and cannot afford a pleader. He must then be informed that such is the law, and that it is one of the merits of our system that the law is the same for rich and poor alike. Can it be maintained that the Easements Act, any more than the Specific Relief Act finds any warrant in the constitutional scheme of Indian legislation, or that the passing of them is not clearly amenable to Sir H. S. Maine's censure?

Nor is this all. The large importation of technical law necessarily displaces a more than proportionate amount of native custom. If the excellence of a legal system can be gauged by the absence of lawyers, as the healthiness of a locality by the absence of doctors, native custom in respect of leases, mortgages and common agreements had at least the merit of serving its own purpose. Until recently the agricultural communities of India, that is, the great bulk of the population, have been in the habit of managing their own affairs in their own way. The barrister and the pleader are of our recent creation, while, except in the Presidency towns, there are even yet no solicitors or conveyancers, barristers and pleaders dealing with litigants direct. In England no sane man thinks of touching a mortgage or even a lease or common agreement without a lawyer at his elbow, and the unwisdom of being one's own lawyer has passed into a proverb. In India the money lenders, that is, most well-to-do agriculturalists, have been in the habit of drawing up all their own legal documents, rudely no doubt, but still so as to be a fair guide to the mutual intentions of the parties. If disputes arose, native custom all over India would settle them cheaply and

expeditiously by a system of arbitration, (punchayet) so excellent as to be recognised in those Acts whose tendency it is to abolish arbitration. But now, as our laws are rapidly becoming unintelligible to all but professional lawyers, and as the professional lawyer class is largely on the increase in wealth and numbers, a standard of legal skill and knowledge is being introduced, which bears very hardly upon those who do not come up to it themselves, and cannot afford to hire it. The ordinary native can no longer manage his own affairs. It must be borne in mind, too, that the very large majority of Indian judges are not trained lawyers, are not lawyers in any sense, and that many of them are besides overburdened with executive duty. The result is that the executive work, in which the great body of the people is most interested, is hurried over in order that the amateur judge may find time to elaborate something in faint resemblance to a professional judgment, as this part of his work may come before his superiors in appeal and stand on record against him. The professional Bar which makes a business of the study of the law, is stronger than the amateur Bench, and this is the secret of the enormous fees which litigants in a very poor country still find it worth their while to pay for legal assistance. Over and over again, I have heard natives say that a man has been convicted or lost his case, not because he was guilty or had the worse case, but because he had no barrister to appear for him. I am far from undervaluing the immense advantage which a judge derives from a well informed Bar, but I still hold that the causes which have suddenly placed so high a premium on the legal profession in India are a great hardship to the masses and especially to the poor, and that the multiplication of the pleader class, and the ousting of the old landholder class, are great political evils. The growth of the Bar, and the increase of litigation, are constantly held up in annual reports as gratifying evidence of an advance in legal efficiency and increased confidence in our courts. As well, I venture to think, might we look upon the multiplication of doctors and undertakers, and the increase of pawnbrokers tickets as satisfactory proofs of increased professional or commercial activity.

The multiplication of English barristers and English speaking pleaders, and still more, the predominance of the barrister element in the highest courts of appeal, naturally tends to leaven the whole Bench with English law. Our judges even in the lower grades are beginning to plume themselves on citing English case law and text books—often to the neglect of that accuracy in the statement of facts on which most decisions really turn. Where a judge would have been content a few years ago, to satisfy his own sense of the merits of a case, he must now satisfy his ambition to show that he

also can cite English ruling and precedent. In a recent case of some importance, I was encountered by a ruling taken from a decision of Sir G. Jessel, uttered without any reference to India, and yet made the basis of a decision in an Indian appeal. As our Courts of first instance have no access to such decisions, it seems to me to be productive of hardship and uncertainty, that a suitor at the last stage of his case may find himself worsted by a ruling taken from a source which he could not foresee.

If the English system were the best of all possible systems, it would still be a matter of regret that it should displace native customs, which serve their purpose, and are familiar to the people. It was, perhaps, inevitable that English manufactures should displace native manufactures, and thereby throw whole classes out of their traditional employ. All the world over free trade must have its victims, who find what consolation they can in the alleged good of the greater number and the superior excellence of the imported article. But no such compensation is forthcoming here. The best authorities agree in inability to find terms to express "the amazing inefficiency, confusion, "doubtfulness and delay which, proverbial from earlier times, "continue still in English law." Though the judges are supposed to be acquainted with it, judges themselves have admitted that, as no human mind can master English law, ignorance has ceased to be a disgrace. The only parallel to the voluminous intricacy of the criminal law, is the similarly "multitudinous, "involved, unclassified" civil law, aggravated by daily increasing records of case law.\* "Session after session this confusion is being made worse confounded by the passing of "separate Acts and successive amendments of Acts, which are "left unconnected with the multitudinous kindred Acts and "amendments that lie scattered through the heaped records "of centuries." This is the system which our ablest judges, especially in the higher Courts, aided by the English and English speaking Bar, are doing their best to make prevalent in India, and which, unless a decided stand be made by competent authority, will soon press as heavily upon the natives as it does upon us in England, who have the misfortune to be used to it, and who, at the worst, can purchase from the ubiquitous lawyer some small measure of relief. Surely, then, we must admit that for India to import English law, is as irrational as for England to import Indian science.

It will, perhaps, be objected that the Acts to which exception has been taken are a portion of the work of the Indian Law Commission, which, as a body appointed in England and working in England, is not amenable to an order of the Indian Government. I would ask the objector whether that Commission has any and what authority to override the Indian

Councils Act, and whether the orders of 1873 did not express the spirit and letter of that Act? How and when the Indian Law Commission was appointed, with what objects, for what period, and at what cost, are some of the many things not generally known, and might in these days of extreme financial pressure, well come under reconsideration; for, if there is one luxury of administration with which, more than another, the whole Indian public would most readily dispense, it is the costly superfluity of technical law. Ruffles for the shirtless are in no sense more anomalous, than easements for Bhils and Gonds and savages of the same calibre. A more valid objection might be raised on the ground, that the legislative needs of a great Empire are not to be measured by the capacity of its administrators of the day—that the object of the Government has been to bring the law up to the level of the English standard of completeness; that a system of scientific law is one of the best and most rapid educators of the people; and that if portions of the Empire are backward, that is no reason why all, including the more advanced, should not share in the great boon of a scientific legal system, adapted from the best sources to the circumstances of India. This objection, besides assuming a great deal, raises the question of the theory of legislation as to which I can only hope here to invite discussion. Is it the case, I would ask, that the theory propounded by Bentham is obsolete—that all legislation is an evil, only warrantable when the legislator is assured of the existence of an evil capable of correction, and that his legislation will correct it? Tried by this standard, full warrant may be found for our Penal and Procedure Codes, the Evidence and Stamp Acts, and for other general Acts of the same class, as also for special enactments designed for local or temporary objects. But surely measures of this character differ from those which define or create altogether new rights and new penalties. In the large majority of Acts of the latter class, there is no mention of the existence of an evil to be remedied, and no pretence that the measure in hand will remedy it. The usual statement of objects and reasons which accompanies an Act, is restricted to the enumeration of the sources from which the Act is taken, and of the legislator's personal acquaintance with those sources. Legislation so originating, fails altogether to be the prescription and the remedy which Bentham contemplated. The legislator of the present Indian type inflicts his prescription upon millions of the human race, not because they want it, or will be the better for it, but because he has, or thinks he has, a vast knowledge of prescriptions. Would any one who could help it, consent to be so doctored in the gross, without regard to his symptoms, and can any theory of legislation justify the imposition of Procrustean Acts not originating in the circumstances

of the people, but requiring those circumstances to conform, as best they can, to some arbitrary standard? I offer no opinion on the abstract merits of any of the Acts cited or referred to. They are the work of extremely able men in their own speciality, and their drafting is no doubt faultless from their own point of view. But legislation in the abstract does not seem within the scope of practical politics. It is certain that there are millions who do not want such Acts at all, and whose lives would be easier without them. It is too often forgotten that the Indian Empire is a bundle of nationalities, differing as the Esquimaux from the Neapolitan. Hence, in reply to the common enquiry what "the natives" think of this or that measure, or of this or that man, the only safe answer is that millions never heard of the one or the other, and that of the rest some think one thing and some another. If English statesmen find it no easy task to contrive an Act for Ireland, or any single section of Great Britain, what would be the difficulty of a measure intended for application to all Europe? And yet Indian legislation jauntily applies Act after Act "to all British India." As the limit of necessary general Acts has long since been reached in India, it would seem that henceforth the legislature should be content with the humbler task of watching the laws actually in force, simplifying their operation, remedying real evils discovered in practice, eliminating some uniformity from the decisions of the Privy Council and the concurrent High Courts; and still more, with the best of all legislation—the repeal of previous legislation. It must be remembered that the oriental mind is strictly conservative, and does not share in that admiration for reform which characterizes the West. A recent Governor on the occasion of the opening of an Industrial Exhibition, then a novelty, asked a native of the old school whether he was not pleased at the probable development of local resources. "My Lord," said the old man, with uplifted hands, "first the cyclone came and then the Exhibition, we poor people are being ruined." In the early days of the Empire the people suffered from the rapacity of new arrivals, each requiring to be satisfied. The rapacity has long since ceased, but the suffering remains and will remain, if each new arrival to power is permitted to let loose his own packet of specialities, scientific or benevolent. Sir A. Hobhouse threw in Specific Relief, Mr. Stokes Easements, and there are ominous rumours that Mr. Ilbert will consider his term of office unworthy of his distinguished predecessors if he does not bequeath us an imperial system of "torts." I have no hesitation in saying that the people at large do not require any information about torts.

I have now stated briefly and bluntly one grievance under which a large section of the community in India is suffering, and I would ask leave to conclude with a few suggestions as



to the more obvious remedies required. I think an attempt should first be made to get a thorough knowledge of the facts as to the working of those laws which have been initiated by the legislative department, and not in the constitutional way; as to the causes and results of increased litigation in particular districts; as to the increase of the pleader and barrister classes, and the extent to which they have become landholding classes. It is a common delusion that results, especially of Government action, will be only commensurate with what was expected; and this delusion is strongest among those who are mainly employed in the manipulation of such action and have little concern with the results; whereas it is well known that indirect results, not expected, are usually in excess of the direct results that were expected. Let it be seen whether the objects put forward by the framers of Acts have been attained, or whether there have been any, and what other results, and if such results have been injurious, let it be considered whether particular districts should not be exempted from the operation of such Acts. One thing is certain: either the law must be made much simpler, or the agency to administer it, especially in the Courts of first instance, must be much improved.

Let the orders of 1873 be revived, and the orders of 1877 cancelled, as to the initiation of legislation, which henceforth should correspond strictly with the Indian Councils Act.

Let the Councils designed in 1861 be constituted in the minor Provinces, which after twenty-five years delay are now surely ripe for them, and let local business be done, as a rule, locally. This would be a safe step in the direction of really Local Self-Government, beginning from above as all reform in India should begin, that would be hailed with great and general satisfaction. And when general legislation is strictly limited, and local legislation is done locally, let the Supreme legislature occupy itself rather in improvement than in extension, and specially in preserving the country, under the existing appellate system, from the disastrous importation of English law.

Lastly, let us be spared from further innovations, however specious or benevolent, of external origin. Peace and public works will for years suffice us as a programme of progress. The Government of India has always before it a task of unparalleled magnitude in dealing in the best way with current business as it arises, and in enabling all parts of its vast Empire to expand most smoothly to their own natural development. That Government which best fulfils these functions will be most successful and have the least leisure for hazardous experiment.

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## ART. VII.—LOTZE'S PHILOSOPHY,

THE name and the writings of Professor Lotze are little known to Englishmen at home or abroad. They are known perhaps only to a few professed students of philosophy. The two thick volumes before us will no doubt introduce the views of Lotze to a larger circle of such students. Beyond that circle they will hardly find their way. But perhaps as they are now likely to attract a wider attention than hitherto, a brief notice of these views may have some interest for the general reader.

Rudolf Hermann Lotze was born at Bautzen in Saxony in 1817. He was the son of a physician. He underwent the usual course of classical discipline at the gymnasium of Zittau, and at the age of seventeen went up to the university of Leipsic. Here he studied physical science and philosophy, and in 1838 took his degrees in philosophy and medicine. In the following year he became a private lecturer in philosophy. He tells us that his medical studies led him to perceive that a knowledge of the natural sciences was a necessary preparation for philosophy, and to perceive also that the Hegelian survey of the series and sum of things proceeded on an erroneous method. He was impelled to philosophical study by a natural ardour for poetry and art, and of course travelled along the lines marked out for him by Fichte, Schelling, and Hegel. In 1842 Lotze was appointed professor extraordinarius of philosophy at Leipsic; and in 1884 he accepted a call to Göttingen, to succeed to the philosophical chair there vacant by the death of Herbart. At Göttingen he spent many quiet and uneventful years, for the most part in the study and the lecture-room. He died at Berlin in 1881.

- The spectacle of the world around us exhibits facts, laws, and tendencies. These tendencies are upwards, or in the direction of ideals already intimated by original presentiments and aspirations in the human mind. These presentiments accord also with the primitive movement of thought from imperfect to perfect, from finite to infinite, from dependent to independent being. It is upon these presentiments and

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\* *Microcosmus: An Essay concerning Man and his relation to the World.* By Hermann Lotze, translated from the German, by Elizabeth Hamilton and E. E. Constance Jones. In two volumes. Edinburgh: T. and T. Clark.

aspirations, and the ideal tendency and movement of the world, that the metaphysician is most earnestly insistent. Take the feelings known as the monitions and presages of conscience, Take the process of silent meditation towards a higher and higher beauty and goodness, which recedes the further with each step of our advance towards it. These are as much facts of human nature as any fact of sense-perception, and they are facts the significance of which requires to be fully and carefully unfolded.

All experience is an arch where thro'  
Gleams that untravel'd world, whose margin fades  
For ever and for ever when I move.

Such feelings, along with a variety of spontaneous, unreflective, subconscious inferences to which they give birth, are the natural roots of religion. It is the endeavour of the class of metaphysicians to which Lotze belongs, to construct a view of the series and sum of things wide enough to harmonise the findings of the physical sciences with these aesthetic and religious presentiments and aspirations. Each of these thinkers proposes to present us with a picture of the sum of things which shall satisfy the cravings of the heart and intellect.

If we look at the world, generally, in its movement, the process of things is found to exhibit itself as a series of forms and types of existence in an order of ascent towards ideal beauty and goodness. There is a prevailing unity of plan and upward and onward movement. Such words as upward, onward, higher, indicate a movement of mind—call it presentiment, aspiration, or what you will—towards ever-receding ideals, intimated in, but never presented by, the facts of sense-experience. How is this upward movement to be accounted for?

Lotze's predecessors, Fichte, Schelling, and Hegel, account for this by supposing the ascending series to be a scale of manifestations or self-explications of one sole reality.

With Fichte this one sole reality, the source of things, is an impersonal, universal ego, one divine life that lives in all things, and which finally rises to self-consciousness, thought, and will in individual men and in society. The blessedness of saint and sage is conscious participation in this one divine life that lives in all things, and, in fact, is all that is.

With Schelling this one sole fontal essence is a pure indifference of subject and object, which explicates itself into nature and spirit. Nature proceeds in an ascending order of formations towards conscious intelligence. The inanimate products of nature are imperfect efforts of nature to become conscious. Inanimate nature is, as it were, a petrified intelligence. The forms of thought, the characters of intelligence, are present unconsciously in outward things. The highest end

of nature is to make itself objective to itself, and this end is overtaken in the highest and last reflection of nature, in man, in human reason. It thus appears that nature and intelligence or human reason proceed from one and the same original, from an undifferentenced unity of thoughts and things. Mind, petrified as it were in nature, passing through successive gradations, at last appears as consciousness in man. "Man can look at the world and say, I am the God whom it cherishes in its bosom, the mind that moves in all things. The infinite world is nothing else than the creative mind of man itself in infinite productions and reproductions."

With Hegel the one sole formal reality is an idea, a pure undifferentenced thought, which differentiates itself into successive grades of thoughts and things, to find its final explication in the self-conscious intelligence and will of man. Its highest outcome is language, art, literature, religion, institutions. These are "the objective deposits of the reason in time." The primal characterless thought, out of which the sum and series of things or thoughts issues, is divine, the divine idea, God, and creation is a metaphorical expression for its process of self-explication.

Such were the several cosonical conceptions with which Lotze familiarised himself in his student days. A certain slight degree of currency has been given to them in English literature in the writings of Carlyle, Emerson, and Matthew Arnold; though they have proved repellent to the modest sobriety and hesitancy of English thought, at all times distrustful of any proposed unification of all knowledge.

In each of these cosonical conceptions, as the reader will have observed, the Deity is impersonal, and from time to time appears to be little more than a poetic name for the highest thoughts, the most selfless impulses, the noblest actions and the most blissful moods of man. They thus not only fail to satisfy, but positively shock the moral and religious instincts and pre-sentiments. A little thought will show that, if we take any one of these theories to be true, evil actions no less than good actions, are actions of the one divine being that lives in all that live, and acts in all that act. If all my actions are the actions of the one divine reality that manifests itself, lives and acts, in and through me and others, I am neither free nor responsible. The distinction of right and wrong disappears, and admiration and indignation, self-reproach and self-approval, become illusory. There is no personality in God. "God, if a God there be, is the spirit of men, which is man." There is no personality in man. That is to say, there is in man no free self-origination of thought and action. My volitions, my thoughts, my words and deeds are parts of a fixed and undeviating

process of things. If I am mean and base, I am a relatively low, if I am wise and good, I am a relatively high efflux of the universal life. In the one case I am not to blame, in the other I am not to be praised. I am what I am in virtue of the march of things. Merit and demerit have vanished, and praise and blame, shame, remorse, admiration and indignation must vanish also. They are all alike illusory, and my moral nature has no significance. If I think otherwise I am in a waking dream. So far then, the ideas proposed to us, will not stand.

Lotze refers the ascensional order of forms and types to the creative purpose of a personal Deity. It is the immediate expression of a divine intelligence and will. This personal Deity, however, is not an intelligence prior to and outside the cosmos; but an all-pervading essence, underlying, connecting, animating all things; and yet a spiritual essence imaginable only after the similitude of our own conscious life. The unity of the Deity pervades and is preserved in the world, as the unity of the self pervades and is preserved in all the variety and plurality of the mental modes. The infinite Being is the one power which gives to itself in every individual mind a new mode of existence. "All that exists is only one infinite Being, which stamps upon individual things, in fitting forms, its own ever-similar and self-identical nature."

This one infinite Being is not to be identified with the order of the cosmos. This order cannot be put in the place of God, inasmuch as order is inseparable from the material in which it is realised, and can never precede such material as a conditioning or creative force.

This one infinite Being is personal. Humility and an instinct of love and reverence lead the religious mind to apprehend the ideal under the aspect of a personal God. Personality, Lotze says, does not, as is usually held, imply finite limitation. It has its root in self-consciousness apart from all reference to a not-self without. The limitation of the finite soul far from being a condition of its personality, is a barrier to the full development of its personality.

Lotze accepts and revives the monadology of Leibnitz. The things we perceive around us are made up not of minima of extension, but of indivisible units of force. The attributes and spatial relations of these things, are the attributes and relations of a plurality of units of force, simple, unextended beings, or monads. What we call extended matter is a system of these unextended beings. These by their forces fix the position of one another in space; and in resisting every effort to make them change their place, they produce the phenomena of impenetrability and the continuous occupation of space.

The one infinite Being in the process of creating and upholding the world, falls into a multitude of different points. The externality of these points to one another constitutes the extension of external things. The impressions reaching these points from without, are transformed within them into modes of sensation and enjoyment. Thus, the world is animated at every point. There is a pervading animation of nature which has much to do with the beauty of its aspect. "The cosmos is the veil of an infinite realm of mental life."

The soul is to the body as a ruling monad, a presiding point of force. The psychic life that permeates all things, pervades the connected atoms of the body, and the impressions of each and all of these indivisible units, are transferred to, and transformed by, the ruling monad. The living body and its mental life are thus to be imaged as an association. "The governing soul placed at a favoured point in the organism, collects the numberless impressions conveyed to it by a host of comrades essentially similar, but lower in rank from the inferior significance of their nature."

In the language of Leibnitz, God is the primitive unit, the primitive monad, the monad of monads, out of which all created monads issue as if by constant radiation.

The individual soul issues out of the substance of the one infinite Being. It does not arise out of the living body in the process of its formation prior to birth; but this process of formation is not an isolated or independent event. Like every other event, this is only one out of innumerable developments of the one infinite Being. We may image that Being as stimulated by this particular event of physical formation to produce out of itself the soul appropriate to the nascent organism.

The distinctive mark of human intelligence is the power of becoming conscious of the infinite. This power has not been formed within us by experience, but is primitive and native to the mind, though exercised in and along with experience. It is not for man to know that the soul continues after death. The destination of the individual must be in accord with the will of the whole. It is not for us to say that every animal soul will perish, and that the soul of every man is imperishable. But we have a firm assurance that justice will be done to each and all in the long process of things. And in this process that only will perdure, which has through its excellence become an abiding part of the cosmic order. Everything that lacks this permanent value must pass away. That progress has worth, implies that individuals will continue to exist after death and that they will be conscious of having furthered the advance of their posterity.

Lotze thus allows an after-life to certain privileged souls. He

will not presume to judge what amount of mental development is to win to immortality. The after-life thus promised is personal and conscious, and therefore not the fictitious one promised in such sayings as—"he lived in the eternal order and the eternal order never dies." In allotting immortality only to the higher souls, Lotze seems to follow Spinoza. According to Spinoza the more the soul is filled with clear and precise ideas, the more it is animated with the intellectual love of God, the ampler will be the share of immortality it attains to. The imagination perishes along with the sensitive organism which gave it birth, and the passions pass away with the imagination. The man that has been the slave of passion, void of divine knowledge, loses the semblance of being he once possessed. It is only the active intellect, irradiated and animated with the divine love, that survives the body and is imperishable.

"The laws of nature are the self-imposed conditions according to which the one creative infinite has based its eternal evolution." Facts and laws, the sum or series of nature, exist for the realisation of good. Everything exists only as it expresses some phase of the good; and the essence of each particular thing, that which makes it to be that which it is, is the idea of the good, the creative purpose, at a particular stage of its realisation.

The physical view of nature, cold and mechanical in itself, has to be subordinated to, and thus harmonised with, the poetical and religious view. The physicist must perceive that the origin and the goal of things lie beyond his ken. They do not for that reason lie beyond human ken. The physicist confines himself to the domain of things acting and reacting upon each other in accordance with unvarying laws. The artist, the poet, the religious philosopher, within whose view the origin and the goal of things presents itself, must be reminded that the divine end is worked out by these inflexible laws, by the mechanism of nature, and by this alone. The one infinite Being upholds the laws he has himself implanted in the world.

So far the task has been to present the reader with an outline of Lotze's philosophy. The picture it exhibits of the sum of things is likely enough to shock and chill the general reader; as it is certainly out of accord with English preconceptions. Happily in England the influence of Spinoza has hardly made itself felt.

In the details of the work there is much to engage an attentive interest. There is also much that is obvious, and which has been better stated elsewhere: take for instance Lotze's remarks on the questions that agitate us so much at present, on the nebular theory, and the hypotheses of spontaneous generation and the transmutation of species.

He says, for the while accept these theories, and the primal

origin of things remains for the physicist the mystery it was before. He is able to examine only particular intermediate stages in the cosmic process. The supposed nebular chaos or fiery vapour out of which the planetary system may have formed itself, was not the first beginning of the cosmos. This nebular condition was only a middle point of transition through which the matter and the forces of the world have passed, without loss or increment, to assume a new development. The physicist has still to leave the originating principle and the goal of the cosmic process to the metaphysician.

Grant again for a while that the planets were formed out of rings of vapour thrown off by the fiery central mass. Grant that on one of the planets thus formed,—one out of countless chemical combinations—produced a first rude germ of life. Grant that in the long march of ages, lower species were, by imperceptible progressive adaptations, raised into higher ones, till finally man appeared, the last link in a chain of physical formations. Take this for proved, though proved it be not, and all that happens is that the creative act is pushed back to an earlier point in time. And at that point in time, an infinite intelligence must have infused into the nebular mass a boundless capacity for regular development. "The contemplation of the whole series of graded periods during which formless matter may have been undergoing processes of formation, would but add to the splendour and variety of scenes in whose pomp the phantasy might revel; but would not explain the wondrous drama as a whole more adequately than that modest belief which sees nothing but the immediate creative will of God from which the races of living beings have been derived. Whatever modes of creation God may have chosen, none avails to loosen the dependence of the universe on Him, none to bind it more closely to him."

There is nothing new in this, and nothing that has not been more effectively stated by other writers. The supposed nebula must have had a particular size, mass, form and constitution, in order that the solar system might be produced out of it. These properties and laws of the nebula which fitted it to become the solar system, must either have had a cause, or have been self-subsistent. If they had a cause, was this reason or unreason? If we say that they were self-subsistent, we assume a virtually infinite plurality of self-subsistent entities. And as creative reason is excluded, the present orderly collocation of these entities is a fortuitous collocation, presumably preceded by millions of disorderly collocations. If we refuse to ask ourselves whether there was a cause or no, we are merely shutting our eyes that we may say that we are in the dark. As a matter of fact we are surreptitiously assuming the self-subsistency of matter. We say that the problem



of the origin of things is insoluble, and quietly assume ones of the alternative solutions. We deny the possibility of philosophy, and at the same moment we philosophise unwittingly and unskilfully. Every man who reflects upon the world as a whole, is so far and for the moment a metaphysician. The important question is, Is he a skilful or unskilful one? Is he cautious and thorough-going in his process of reflection, or is he crude and hasty? And thus the popular physicist, with his negation of metaphysics, is so far and for the moment himself only an unskilful metaphysician.

To say the least, the theistic view Professor Lotze proposes, is not the traditive and accredited theism. His position appears to be one that is by no means new, that of a pantheist shrinking from pantheism and struggling to be theistic. A variety of new theistic conceptions have been from time to time proposed in place of the established one, but none of these has yet succeeded in replacing it either with the many or with the few. And the reason is this,—though this is not the place to prove it,—that the traditive theism, rooted in a variety of spontaneous, instinctive, and subconscious inferences is alone able to satisfy and fully account for every phase of human nature.

There is a natural movement of thought from the imperfect to the perfect, from the finite to the infinite, and from dependent to independent or self-subsistent Being. The presentiments, aspirations, and mental movements towards the ideal, are as much facts of human nature, as the sensations and associations of the crudest experientialist. The inferences flowing from these presentiments and movements operate spontaneously and subconsciously, that is without reflective recognition in the minds of the many; and thus the many find the traditive conception valid for them. They operate in the same way in the mind of the reflective thinker, who explicates them into consciousness with more or less precision. In general, he also finds the traditive conception valid. Not always: for he may err in the explicating process; reflection, to use the phrase of Cousin, carrying with it "the sublime and mournful privilege of error."

In each age the highest intellects have found it valid. In each age it has been assailed by a multitude of crude and hasty thinkers, by a "ruffraff of temporary notabilities."

Descartes laments the prevalence of atheism, is on this head at one with the doctors of the Sorbonne, and revives the theistic proofs of Anselm.

Berkeley tells us that it was the custom in his day for polite persons to speak freely on religious subjects in all places of resort, in the drawing-room, the coffee-house, the tavern,

Butler tells us, "It is come, I know not how, to be taken for granted by many persons, that Christianity is not so much as a subject of inquiry, and that it is now at length discovered to be fictitious. Accordingly they treat it as if, in the present age, this were an agreed point among all people of discernment, and as if nothing remained but to set it up as a principal subject of mirth and ridicule, as it were by way of reprisals, for having so long interrupted the pleasures of the world." Warburton laments, "I have lived to see that fatal crisis when religion has lost its hold on the minds of a people." Yet Berkeley proceeds to make short work of the "minute philosophers," and Butler of the "free-thinkers" of the day.

Clarke, Berkeley, Butler are greater names than Collins, Toland, Tyndal. The work of these has endured, the work of those has passed away. There is, therefore, nothing new or extraordinary in the present state of men's minds. Crude and hasty reflection has abounded in each age; in each age the physicist has trenched on the province of the metaphysician; and in each age the metaphysician has refuted popular physicist and philosophaster, and upheld fundamental verity.

It has been said often enough of late, that the age of system-building is past. This is true in the sense that neither the public nor the philosophic student will readily attend to any new presentation of the whole sum and series of things. They have learnt that that is an idea too vast for any one man to construct once for all. The interests touched by metaphysical theories are so vital, that metaphysical error is the most serious of all error. Whatever view of the sum of things the patient and cautious thinker may construct for himself, he will be very slow in publishing it to the world.

In fact, it is not the business of philosophy to usher truth into the world, but to give a clear, precise, and consistent account of truth already there, of principles and inferences already latently and implicitly operative in the general mind. These principles and inferences afford an aggregate of truths intimated in the facts of experience, and serving to explain the facts of experience, while in themselves, in a certain sense, prior and superior to experience. In them we ascend above experience that we may descend into it again. This equipment of primitive truth is amply sufficient for the intellectual, moral, and religious wants of man. But we may well doubt whether these truths, supplemented with a variety of far-reaching but precarious physical hypotheses, will enable us to form a final picture of the series and sum of things.

Hegel's words are very true, that "we are not to imagine that philosophy was the first to give us truth, or that mankind had to wait for philosophy in order to arrive at knowledge of truth." We may best understand the business of the metaphysician by comparing it with that of the grammarian and the logician. Men spoke correctly long before the grammarians generalized the conditions of correct thinking. The grammarian gives a reflective,—and thus a clear, precise and consistent—account of a previously spontaneous process of speech. Men thought correctly long before the logicians generalized the conditions and analysed the products of correct thinking. The logician gives a reflective,—and thus a clear, precise, and consistent,—account of the previously spontaneous process of thinking. Men possessed a mass of intellectual, moral, political, and religious truth before the metaphysician generalised and formulated the principles, and pointed out the spontaneous and subconscious inferences on which this mass of truth reposes. There is, as Burke says, a latent wisdom underlying old institutions and widespread prejudices. The metaphysician gives a reflective,—and thus a clear, precise, and consistent,—account of these primitive principles and implicit inferences; but this reflective interpretation of principles, presentiments, and subconscious inferences, must be thorough-going, or it is pernicious. A habit of crude, imperfect, and hasty reflection, eats like poison into the whole intellectual, moral, and religious nature. It unsettles the principles; we here use the word principles in the wide and popular sense, for the dicta of this latent wisdom; and men's principles, if they have lived in a good social atmosphere, are invariably better than their practice or their opinions.

Popular instruction, the instruction of the masses, is productive, in the brighter and more gifted youth, of these habits of crude reflection. It puts the precipitate opinions of the individual into the place of the latent and implicit wisdom of society. Hence it is that it is accompanied with peril to institutions, morals, and religion. The healthy operation of unreflective principle, undisturbed by superficial instruction, is very happily described in *Silas Marner*, and other of George Eliot's works. It is perilous to teach people to think for themselves, unless they have before them a life of leisure for the purpose of thinking. To do so is to replace the healthy and sober operation of principles, by shallow and rash opinion, inflation, and hasty action. To see the truth of these remarks we have only to picture to ourselves for a moment the ex-pupil of a Board School airing his political views before a debating club. We see at once that less opinion with more reverence would make a wiser and, we may add, a better

man. And if we want authority for these remarks, we shall find it scattered throughout the dialogues of Plato.

If hasty and one-sided reflection is pernicious, a prolonged and many-sided metaphysical discipline is productive of a quiet, sober, and conservative temper. This spirit gives little weight to individual constructive effort, and forbids us "to try experiments in living." It thinks, feels, and acts in accord with spontaneous and unreflective principles; that is, in accord with its own human nature. *Nunquam aliud natura aliud sapientia dicit.*

A. E. GOUGH.

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## THE SEVEN NIGHTS OF CREATION.

Yusuf the potter told me this to-day,  
In the cool shadow of the Bhatti Gate,  
When a red scorpion stung me and I railed,  
Breaking his mid-day slumber. Yusuf knows  
The tales of all men's tongues.

“Not His the fault  
Who fashioned all things fair and fit for man  
In those six days He laboured. That thy hand  
Fell on the worn, *rek*-rotten brick which hid  
The evil thing, this much was God's design,  
The beast was fashioned otherwise.”

I wrapped  
Fresh melon-rind above my palm and laughed,  
Because I doubted Yusuf, being young  
And, so my brother *hulwaies* tell me, proud.  
“In the beginning there were seven days,”  
Growled Yusuf from behind his lime-dyed beard,  
“And seven nights. God laboured in the Light,  
Who is the Light of All Things. By His will,  
Who is the Power, Eblis from the Pit  
Had power to labour in the night and make  
All things for our discomfort. God is great!  
Alone, afar, at noon-tide Eblis watched,  
Jealous of God, the All Sustainer's work—  
Saw the Great Darkness rent in twain and lit  
With Sun and Moon and Stars—beheld the Earth  
Heaved upward from beneath the Waters, green  
And trampled by the Cattle—watched the Sea  
Foam with the Children of the Waters—heard  
The voices of the Children of the Woods  
Across the branches. Saw and heard and feared,  
And strove throughout those Seven Nights of Sin  
•To mar with evil toil God's handiwork.  
O Hassan! Saving Allah there is none  
More strong than Eblis. Foul marsh lights he made  
To wander and perplex us—errant stars,  
Wild devil-ridden meteors bringing plague—  
Deserts of restless sand-drifts—icebound seas

Wherein is neither Life nor power to live—  
 Bound Devils to the snow-capped peaks (These vex  
 Earth with their struggles)—poured undying fire  
 Into the bosoms of the tortured hills,  
 And filled the belly of the Deep with life  
 Unnameable and awful at his will—  
 Sent forth his birds, the owl, the kite, the crow—  
 Grey wolves that haunt our village-gates at dusk  
 Made he his horses and his councillor  
 The hooded snake—in darkness wove the grass  
 That kills our cattle—made the flowers that suck  
 Man's life like dew drops—evil seeds and shrubs  
 That turn the sons of Adam into beasts  
 Whom Eblis snatches from the sword-wide Bridge.  
 The thing that stung thee and its kind his hands  
 Fashioned in mockery and bitter hate—  
 Dread beasts by land and water all are his.  
 Each bears the baser likeness of God's work,  
 Distorted, as the shadow of thy face  
 In water troubled by the breeze."

But here

An Ape from off the *chuppar* thatch that hangs  
 Above my stall, dropped swiftly down and stole  
 A double handful of sweet *balushai*,  
 Then gibbered overhead among his kin.  
 I laughed (albeit half my stall was wrecked).  
 "Is *he* the work of Eblis?" Yusuf stretched  
 One lean forefinger to the painted shrine  
 Where Hanuman the idol leaped and grinned  
 And all his living brethren frisked above :—  
 "Eblis made Man—behold him—dung and filth  
 And refuse of the Pit. O Hassan! See  
 The men of Eblis worshipped by his sons!  
 Alone, afar, at noon-tide Eblis watched  
 The Seven Soils slow moulded into Man,  
 And feared the living clay God made his lord.  
 Then the last Night of Sin came down and cloaked  
 The young and tender world while Eblis wrought.  
 None knew the secrets of that Night but God.  
 'Tis writ the angels shuddered when they heard  
 Clamour and lamentation through the dark ;  
 Cries of huge beasts whom Eblis slew to make  
 His Man more perfect ; thunders from the Pit  
 And voices of the Devils and the Djinns  
 Rejoicing. It is written Eblis called  
 Three times to God to stay the flying Night.  
 Allah Al Bari heard him (He is great!)

And held three times Her pinions till the cries  
Ceased and the work was perfect."

Yusuf smiled,  
Mocking the apes with pellets from his wheel :—  
"Perfect. Then Eblis turned and saw his work  
When the Great Darkness lifted. Thus he cried  
Amid the laughter of the Sons of God :—  
'Lo ! what is this I make. Are these *his* limbs  
Bent inwafd tottering 'neath the body's weight ?  
The body crutched by hairy spider arms,  
Surmounted by a face as who should say  
Mourning :—Why hast thou made me, wherefore  
breathed

Spirit in this vile body ? Let me be.—  
The strange black lips are working with a cry,  
A cry and protest while the wrinkled palms  
Are put forth helplessly and beat the dusk.  
So did not my great foe when he was made. ,  
I saw his eye quicken with sense of power,  
I saw all wild things crouch beneath that eye ;  
God gave him great dominion over all,  
And blessed him. Shall I bless my handiwork ?  
After thy kind be fruitful, lust and eat,  
All things I give thee in the Earth and Air  
Only . . . depart and hide thee in the trees.  
He rises from the ground to do my will  
Dumb, limping, crippled. Can the being speak ?  
Stay, Thing, and thank me for thy quickening.  
The great eyes roll—my meaning is not there  
Reflected, as God's word was in the Man's.  
I, Maker, bid thee speak in Adam's tongue,  
Unto my glory and the scorn of God.

\* \* \* \* \*

He plucks the grass-tufts aimlessly, and works  
Palm within palm ; then, for a moment's space,  
Breaks off rough bark and casts it on the ground !  
Accursed, e'en as I am.

Yet one curse  
Shall sink him lower than the lowest. Stay !  
Man ! Inasmuch as thou art made my Man,  
From all communion in the woodland tongue  
With beast and bird for ever be debarred.  
The Oxen bellow in a thousand keys,  
There is one bellow to the ear of man :  
The Lion from the rock-rift calls his mate,  
And Adam hastening folds the fearless flocks,

Saying :—He roars for hunger. He is wroth—  
So be it unto thee.

Alas! the light  
Is flaring forth to mock me. He, my Man,  
Helpless, uprooting grass. While all the world  
Is thick with life renewed that fills my ears  
My last, my greatest work is mockery.  
Depart O Ape! Depart and leave me foiled! ” .

This tale told Yusuf by the Bhatti Gate,  
Mocking the Apes with pellets from his wheel.  
He bade me wrap the melon-rind anew,  
And trust in God the Fashioner of Good,  
Seeing the mighty works of Eblis brought  
A half day's torment at the most—or stole  
A double handful of sweet *balushai*.

RUDYARD KIPLING.



## .THE QUARTER..

THE principal events of the quarter have been the return to power of a Liberal Ministry under Mr. Gladstone ; the termination, on what appears to be a satisfactory basis, of the Servo-Bulgarian War ; the continuation of Prince Bismark's measures for expelling the domiciled Poles from German territory ; the Socialistic outbreak in London ; the Dilke-Crawford divorce suit ; and among events in India, the visit of the Viceroy to Burma, the arrangements which have been organised for the future civil and military administration of Upper Burma : the organisation of the Finance Commission ; and the death of General Wilson.

Whatever may be thought of Mr. Gladstone's claims to be considered a statesman in the highest sense of the term, it must be confessed that he has shown himself a consummate Parliamentary tactitian. It is now more apparent than ever that he "rode for a fall" when he accepted an adverse vote, on a minor issue, as a vote of want of confidence, and resigned office. The difficulties of his position at the time were hopeless and overwhelming. His foreign policy in Egypt and the Soudan had been discredited by a series of blunders and calamities, the consequences of which he could never hope to retrieve. Nothing he could do would bring back Gordon or Twefic Pasha to life—or restore to the Egyptian army the slaughtered battalions which fell with Baker Pasha and with Hicks ; his policy for the pacification of Ireland and the conciliation of the Irish people had resulted in such disastrous failure, that the Irish difficulty which he was pledged to deal with (when he came into office) is now, after nearly seven years of Liberal administration, more of a difficulty than ever, and he was hopelessly at issue with some of the ablest of his own colleagues as regards the measure to be adopted for dealing with this difficulty in the future, having regard to the admitted and miserable failure of the means directed to that end in the past. His diplomatic dealings with Russia had not been a success. Matters had reached a diplomatic dead-lock between the two countries, when Lord Salisbury assumed office. To continue in the political paths on which he had entered was impossible ; to retrace his steps and admit his mistake, would have been

very possible but at the same time very humiliating. So he selected a course midway between these alternatives and ran away altogether, and in all this we see the cunning of a great Parliamentary tactician substituted for the courage and capacity of a great statesman. The interval between his resignation and his return to power has been most advantageous to him. The strong popular feeling against him has had time to subside, but even as the Prime Minister in a new cabinet, he has not been able to avoid the inevitable cabinet split which threatened his last ministry with disruption and destruction. But how long will it be before his miserable inability to grapple with the political difficulties of the hour—will lead up to a similar crisis—and how long will the English people consent to place the political destinies of the country in the hands of a man who has done more, probably with the best intentions, to weaken, discredit and injure it than any other man of this, or of any other time, in the worst and most degraded periods of English history itself? "How long, oh Lord, how long!" Nor can we find in the internal conduct of the country any compensation for the honor and security we have forfeited abroad. Trade has been stagnant and depressed beyond all precedent, the result, in a great measure, of political uncertainty; the manufacturing classes discontented and impoverished; the agricultural classes gloomy and depressed. In poverty, idleness and discontent, socialism has found its opportunity, its time and the hour of darkness, and all those creepings things (to borrow Macaulay's fine simile) who riot in the decay of civilization, have hastened forth to their repast, and they have done right, for they have only done after their kind.

It is worthy of note that Mr. Gladstone (in connexion with his home-rule policy for Ireland) has made great capital out of the word "inevitable," and now that word has been taken up as "if it were the burden of a song" by his whole party. More than this. The dreary political refrain has found acceptance with a class of political thinkers who do not, as a rule, approve of Mr. Gladstone's views or follow his lead. But in what sense can it be said with any truth, that Home-Rule is the inevitable solution of the Irish difficulty? If it is now inevitable, it has become so owing to the miserable policy of granting concession after concession to Irish demands, until it became inevitable that Mr. Parnell, having got everything else he asked for, should ask for Home-Rule and be satisfied with nothing short of that final concession—or why final? Home-Rule will be accepted as a step towards entire separation, and then the inevitable conflict will be renewed with still more degrading and inevitable concessions in store for us, or civil war, bloodshed, social chaos, and political anarchy for the

ultimate issue. This is what all thoughtful and sensible men foresaw, when the danger which now threatens us, was looming in what appeared to be a very distant future indeed. This is what Mr. Gladstone fails to see even now when the future peril has become a present reality. If ever there was a policy of "shooting Niagara—and after," it is the policy of giving any modified form of Home-Rule to the Irish people, with the hope of finding in that concession a permanent settlement of the Irish question. Grattan who knew his countrymen thoroughly, said: "the Irish people are a very bad people to give way before." This is a truth which Mr. Gladstone has already learned to his cost in the past, and which, it is to be feared, he will have impressed on him at a still heavier cost in the evil days that are now before us. For in connexion with the whole history of Irish agitation for the last seven years, there is one patent significant fact, and the consideration of that fact ought to disillusionize the dreariest political muddler who ever believed in the possibility of settling the Irish difficulty by periodical concessions. It is this. After every concession, the Irish leader has changed ground and presented a new front.

Fixity of tenure, abatement of rent, compensation for land-improvement, these were the cries of the Irish agitators so long as those cries served their purpose, and until by the Land Act they got all they had cried for at the hands of a conceding ministry. Then the cry was changed to abolition of landlordism, and owing to the permitted infamies of the land-league, landlordism is practically abolished in Ireland; for it is a misnomer to give the name of landlord to a man who is dependent on *the will* of the tenant for his rent. And now, the cry is changed again. Now they want a separate Parliament and the exclusive charge of the Irish executive: for what? In order that the present system of robbery and spoliation by Irish tenants may be legalized by an Irish House of Representatives.

Prince Bismark never acts without an object, and it is to be assumed that he has some object in view in connexion with the terribly severe measures which he has lately put in force against the domiciled Poles. But what that object can be, it is very difficult to see. Germany, in view of future complications with Russia, has an obvious interest in standing well with the Polish people, but the effect of the Chancellor's policy will probably be to alienate the Poles for all time. In connexion with this question, a French political critic hazards a conjecture, as to the possible object of Prince Bismark's action, which is probably very near the mark. The impoverished Poles who took refuge in Germany belonged to the most dangerous

—that is, to the poorest and most discontented—classes of the Polish population. Now, that this class should be encouraged to emigrate across the frontier, was the obvious interest of Russia, and in German official circles it is openly stated that the Russian government resorted to all sorts of secret and oppressive measures, not merely to facilitate, but to compel this wholesale emigration. Prince Bismark is not a man to be trifled with in this way ; what appears to be his high handed brutality, is only an open countermove to Russia's secret and insidious designs. That countermove, regarded purely from a political point of view, is a smasher. It is simply a check-mate to the long series of intrigues and treacheries of the Russian Secret Emigration Societies.

The settlement, or temporary settlement, of the Servo-Bulgarian difficulty is satisfactory. If war is destined sooner or later to be evolved from the Eastern difficulty, it is better it should be later than sooner, that is with reference to the surrounding circumstances and requirements of our military position at the present time ; for, thanks to Lord Ripon and his advisers, we have a good deal of lee-way to make up, in the way of preparation, before our India frontier is at all secure against a possible Russian attack. We lost our chance of settling the Eastern question in our favor, for at least forty years to come, in 1878. An English officer now in Calcutta had a most interesting conversation on this subject with General Valentine Baker a short time back. Baker Pasha told this officer, that after the treaty of Berlin, Lord Beaconsfield, then Prime Minister, sent for him (Baker Pasha) and asked him to give his candid opinion on this point. "Would we have succeeded had we gone to the assistance of the Turks just before the treaty of San Stefano?" Baker Pasha gave his opinion without the least hesitation to the effect, that we certainly would have succeeded, and then explained, in great detail, all the various grounds on which he based that opinion. Lord Beaconsfield listened to him in silence, making no comment of any kind, but just said as he was bidding him "good bye ;" "even a Prime Minister cannot always do what he wishes."

The Viceroy's visit to Burma was well-timed and has already led to some important results, but with politicians of the red-tape school, personal impressions count for very little as factors in practical statesmanship. But Lord Dufferin is not a politician of the red-tape school, and with him, and all administrators of his class, they count for a great deal. Lower Burma will be united to Upper Burma, and the two provinces will be placed under one government, both civil and military, but for the present

Mr. Bernard will go to Upper Burma, and an officer, acting in general subordination to him, will carry on the administration of Lower Burma. The selection of Mr. Bernard for this important post will meet with the heartiest approval of all those in any way conversant with the history of the transactions which led to the ultimatum and the overthrow of Theebaw. It is quite true that Mr. Bernard may have appeared to hesitate somewhat too much, and too long, in connexion with the negotiations and remonstrances which preceded the ultimatum, but the Chief Commissioner foresaw that every detail of these negotiations would be subjected to the most jealous scrutiny by the English Parliament and the English Press, and he determined, and wisely determined, that there should not be a "hinge or loop to hang a doubt upon" when the examination took place. If we now come into Court with such clean hands that even the *Daily News* can find no speck on them, that result is due, in a very great measure, to Mr. Bernard. In recognising this Lord Dufferin has done infinite honour both to himself and his administration, and if it be true, as is reported, that Mr. Bernard is to be made a K.C.S.I., that distinction was never more fully earned, and will never be more worthily bestowed.

The recent riots in London have been accepted as a "sign of the times," and we have been asked to regard them as the outward and visible symbol of the enormous strides which socialistic doctrines are making in England in our time; but this is a view of the late occurrences in London which will certainly not bear examination. The great depression of trade (consequent to a great extent on the miserably uncertain character of our political administration) has had the effect of driving a vast number of people belonging to the working-men classes out of employment. Poverty and hardship breed discontent, and the London socialists had no political programme which bore the faintest resemblance to the political creed of the continental communists. This is admitted by Mr. Hyndman himself. The riots, according to Mr. Hyndman, formed no part of his original programme. The people who formed his audience became angry because they were "laughed at" by some well dressed by-standers, and these they proceeded to hustle, and then the thing was fomented and kept up by the roughs, pure and simple, who were only too glad to take advantage of the opportunity to have a "go in" at the shops. This explanation of the recent disturbance is very plausible; and it is probable, that, in all essential respects, it is very true. This sort of thing has occurred before even in England and on a very much larger scale.

The Dilke-Crawford divorce suit must be included among the more sensational events of a socially sensational quarter. The incident is from any point of view a most unfortunate and regrettable one. In the first place it is little less than a public misfortune that the name of Sir Charles Dilke should be connected with such a case at all. Sir Charles Dilke, although a radical in relation to our English domestic politics, is a statesman who holds very sound views on all questions connected with our foreign policy, and as such, he has acquired, and that in a very marked degree, the confidence and respect of all sensible men on both sides of the House. In the second place it is doubly unfortunate that the trial should have terminated, or been allowed to terminate, in the way it did. The decision, as it seems to us, was a most "lame and impotent conclusion" puzzling, contradictory, and altogether unsatisfactory. Mr. Crawford obtained his divorce, and Sir Charles Dilke is acquitted on a purely technical plea—want of evidence. Mrs. Crawford did not put in an appearance, and her unsworn statement to her husband implicating Sir Charles Dilke, was not regarded as "evidence" by the Court. The evidence, therefore, which the judge had before him, was the evidence—the entirely unsupported testimony—of Mr. Crawford himself as to what his wife said, and some memoranda written by his wife at Mr. Crawford's request. This was accepted as sufficient to establish the fact that Mrs. Crawford had committed adultery, but there was no "evidence" to prove that she committed adultery with Sir Charles Dilke. This is a hard saying and difficult to understand; but, apart from this, the fact remains that Sir Charles Dilke did nothing personally to clear his character of the serious imputations which had been made against it. A technical consideration intervened in his favor, and he was content to accept his acquittal on that ground, and on that ground alone. The feeling in the public mind now is, the uncomfortable one, that the accusation was so framed, and the case so conducted by mutual consent, as to secure for Mr. Crawford all that he wanted—a divorce from his wife—with as little examination of the causes which led to it as need be entered into—consistently with that result. Sir Charles Dilke may be, probably is, entirely innocent, but it remains a matter for the most profound regret, that he did not consider it necessary or desirable to put his innocence beyond all doubt.

The long illness of General Wilson excited universal sympathy, and his death, universal regret. Few men in their time have said more sharp things to their subordinates than General Wilson (for he was a rigid disciplinarian, and his temper was somewhat peremptory) and perhaps no man ever

gave less real offence in saying them ; for, under this somewhat rough exterior, there was so much manliness, generosity, delicacy, and real warmth of heart, that his sharpest reproofs left no sting of permanently wounded feeling behind. As an official he was distinguished by a certain downrightness and straightforwardness—

Not for neat reasoning, subtle or refined  
Paused the strong logic of that rushing mind.

He was also a very rapid worker, too rapid, his detractors said, to be very thorough or very sound, but this was on the whole a calumny. If his apprehension of a subject was, as a rule, very swift, it was also, as a rule, very thorough. He loved decision and promptness in everything, and would turn with instinctive disgust from anything like hesitation, embarrassment or delay. On the whole, he was a grand old man ; living, he was as one "that drew after him the hearts of many," and by his death his country was deprived of a most gallant soldier, and his friends and relatives were bereaved of a most dear friend.

The Finance Commission to inquire into expenditure has been organized at last, and there is no fault to be found with the *personnel* of the Committee, so far. It is emphatically what the Viceroy promised it would be—"strongly constituted." It is not only a strong Committee : it is also a very expensive Committee—these Committees, in the interests of economy and retrenchment, always are. We are always glad to spend a good deal of extra money in connexion with the process of finding out that we have already spent too much. Nevertheless the money will be well spent if the labours of the Committee eventuate in some suggestions of such a practical character, that the Government will be able to make a new departure in connexion with public expenditure, especially the expenditure on public works. Mr. Charles Elliott is the President of the Committee. No better selection could have been made.

G. A. STACK.

22nd March 1886.

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## SUMMARY OF ANNUAL REPORTS.

### *Annual Report on Inland Emigration for the year 1884.*

#### PRINCIPAL statistics :—

The two agencies authorized by the law, collected in all 31,286 emigrants for transmission to the tea districts. Each licensed recruiter on an average registered 33·56 emigrants, and each garden sardar registered 7·60 emigrants. Besides the 31,286 emigrants recruited and registered by the two licensed agencies abovenamed, it appears from the Resolution by the Chief Commissioner of Assam on the Report on Immigration *via* Dhubri in 1884, that 12,199 free or unregistered emigrants reached Dhubri during the year, of whom 7,863 labourers with 3,916 dependants entered into local contracts under section III of Act I of 1882, and then went on to the tea gardens of the Assam Valley districts, and the remaining 420 proceeded to the tea gardens without contract under the Act. In 1883 14,096 free or unregistered emigrants reached Dhubri, of whom 7,026 with 2,363 dependants executed local contracts at Dhubri, and 707 continued their journey without having contracted under the Act.

### *Report on Public Instruction, Punjab, 1884-85.*

#### PRINCIPAL statistics :—

The number of scholars in public institutions was last year returned at 125,906 which was unprecedentedly large. This year it stands at 132,993, an increase of about 7,000, or 5½ per cent. There is some decrease in the number of females under instruction; but the number of male scholars has increased in all stages. Numerically, the greatest addition took place in Primary Schools; but proportionately, the increase of about 50 per cent. in Arts Colleges, was far higher than in any other department. Similarly, while the number of scholars as a whole has increased by only 5½ per cent., the increase in English-learning scholars is 9·5 per cent., and, while the increase in Government institutions is barely more than 3 per cent., that in aided institutions is 10·5 per cent. In all these percentage calculations, however, it must always be borne in mind, that after numbers have reached a certain amount, the percentage of annual increase will almost always diminish, not because the increase is not in itself as great as before, but because it is compared with a larger realized result.

### *Report of the Administration of the Andaman and Nicobar Islands for 1884-85.*

#### PRINCIPAL statistics :—

The average number of convicts at Port Blair and the Nicobars throughout the year rose from 11,570 to 11,662, but the number present fell from 11,772 at the commencement, to 11,666 at the close of the year—a decrease of 106.

Six hundred and thirty convicts were received from India, and 17 from Burma, and 23 persons were locally convicted, making a total of 670 against 805 in the previous year.



The number of releases was more than doubled during the year (574 against 270); 7 were transferred to India. The number of deaths fell from 216 to 185, a reduction of 31; 7 were executed, against 9 in the previous year. The number of runaways at large was 24, against 12 of the preceding year.

Out of the 11,666 convicts present at the end of the official year, 9,079 or 77·82 per cent. were life convicts, and 2,587 or 22·18 per cent. term convicts; of these, 2,949 or 25·28 per cent. were Mahomedans, 8,335 or 71·45 per cent. were Hindus, and the remainder professed other religions.

### *Report of the Revenue Administration of the Punjab and its Dependencies, for 1884-85.*

#### PRINCIPAL statistics:—

The collections on account of land revenue during the year amounted to about 212 lakhs, or nearly three-and-a-half lakhs more than in the previous year. Notwithstanding this improved result, the provincial balances increased during the year, and now stand at nearly a million of rupees. Of this amount a sum of nearly three-and-a-half lakhs is classed as irrecoverable, doubtful, or nominal. The remainder is in process of liquidation, and it is hoped that a considerable portion will be actually liquidated during the current year. These large balances are in some respects a new feature in Punjab Revenue administration. But though they are a necessity, they are none the less a misfortune; and the Lieutenant-Governor looks to District Officers to see that no legitimate opportunity for the recovery of the State's arrears is allowed to pass by unutilized.

### *Report on the Police of the Lower Provinces for 1884-85.*

#### PRINCIPAL statistics:—

The total number of cases, cognizable and non cognizable, increased from 214,985 to 219,733, showing a net increase of 4,748 cases. There was an increase of crime in six out of the nine divisions. In the Presidency, Rajshahye and Bhagulpore Divisions, there was an increase of 2,234, 1,252 and 2,885 cases, respectively. In the Dacca Division, on the other hand, cases decreased by 3,453. In Bengal the percentage of cognizable cases was 46·5, that of non-cognizable cases 53·5. On the other hand, in Behar, the percentage of cognizable exceeded that of non-cognizable crime, the figures being 58·2 and 41·8 respectively.

Cognizable offences reported increased from 104,454 to 112,365, or by 7,911. There was an increase in offences against property of 9,212, and in offences against public tranquility of 135. Under offences against the person there was a decrease of 347, and in other cases of 1,089. The increase in offences against property is attributed to a partial failure of crops and consequent high price of food acting as an incitement to crime. The increase in this class of crime was most marked in the Patna, Bhagulpore, Presidency and Rajshahye Divisions. There was a marked decline in excise and nuisance cases.

In Bengal the percentage of cases declared false decreased from 7·3 to 5·9, in Orissa from 8·9 to 6·5, in Chota Nagpore from 8·1 to 6·6. In Behar the percentage increased from 6·4 to 6·8. On the whole there was, it is stated, a decrease from 7·1 to 6·3. The Rajshahye, Patna and Bhagulpore Divisions were the only ones in which there was an increase. Cases excluded from the returns as false, through mistake of law or fact, increased from 8,699 to 9,572. It seems doubtful whether Magistrates

have not in some districts, particularly Backergunge, shrunk from declaring charges to be wilfully false. The percentage of cases reported by the police to be false, but declared by Magistrates to be true, increased from 7·8 to 8·5.

*Report on the Bengal Land Revenue Administration, 1884-85.*

**P** RINCIPAL statistics :—

*Collections.*—The total collections, both current and arrear, amounted to Rs. 3,71,37,748. or a percentage of 92·41 on the total demand, as compared with 94·03 per cent. in the previous year. Out of this amount, Rs. 16,66,444 were arrear collections, representing 75·72 per cent. on the arrear demand; while Rs. 3,54,71,304 were current collections, being 93·37 of the current demand. Under both heads the percentages of realization are below the corresponding percentages of the preceding year. The decline of Rs. 5,05,395 in the current collections was due to delay in the payment of the revenue of the Burdwan estates caused by the death of the Maharajah, just before the close of the financial year. The arrear has since been realized.

*Remissions and Balances.*—The remissions of revenue granted during the year, rose to Rs. 1,24,977, against Rs. 1,03,580 remitted in 1883-84. The largest amount remitted in any district was Rs. 28,259 in Midnapore, on account of loss of crops in the Jellamuta and Majnamuta estates, arising from the excessive rainfall of 1881. The total outstanding balance from all classes of estates amounted to Rs. 29,25,677, as compared with Rs. 22,00,716 in the previous year. From this, however, should be deducted Rs. 8,00,000, being the purely accidental arrears from the Burdwan estates. Thus the true outstanding balance is reduced to Rs. 21,25,677, or three quarters of a lakh less than in 1883-84.

*Report on the Rail-Borne Traffic of Bengal, 1884-85.*

**P** RINCIPAL statistics :—

Compared with 1883-84, the total quantity of traffic during 1884-85 increased by 38·67 per cent., while it was nearly three times that carried in 1882-83. The improvement was entirely in the trade to Gya, which amounted to 8,31,143 maunds, against 4,39,424 maunds in 1883-84, and 98,323 maunds in 1882-83, and was due to the scarcity which prevailed in parts of that district. As regards the traffic carried in the opposite direction, the falling off during the past year was very marked, the quantity having declined from 2,02,455 maunds in 1883-84, to 1,73,532 maunds in 1883-84, and to only 18,810 maunds in 1884-85.

*Report on the Calcutta Medical Institutions for the year 1884.*

**P** RINCIPAL statistics :—

All through the record in 1884 there was an augmentation in the number of deaths, save under the heading "Diarrhoea and Dysentery," both of which diseases shewed, a diminution in the number of fatal cases registered. The fatality of these diseases, cholera or no cholera, has steadily lessened of late years, the number of deaths having declined in the decennial period, when it stood in the year 1875 at 1,579 to 1,209 in 1884, the lowest figure ever reached.

During the year ending the 31st December 1884, 13,256 deaths were registered in Calcutta. The annual rate of mortality, which in the preceding five years averaged 29·24 per 1,000, increased last year to 30·5. The lowest rate reached in the ten-year period was 27·1, viz., in 1880. The deaths referred to the principal zymotic diseases, greatly increased with the exceptions noted. Of other diseases of this class the precise figures are not apparent in the return, whooping cough, measles, &c., having been lumped up with "other causes."

### *Punjab License Tax Report for the year 1884-85.*

#### PRINCIPAL statistics :—

The figures entered on the margin show that the results of the working of the tax during 1884-85 have been very similar to those in 1883-84, as the results in 1882-83 were very similar to those of the preceding year. It is satisfactory to observe that in most cases an improvement has taken place in the framing of the collector's lists.

		<i>Final Demand.</i>	<i>Collections.</i>
		Rs.	Rs.
1881-82	..	4,39,839	4,32,519
1882-83	..	4,36,080	4,34,840
1883-84	...	4,61,740	4,60,473
1884-85	...	4,60,931	4,57,079

### *Report on the External Trade of Bengal with Nepal, Sikkim and Bhutan 1884-85.*

#### PRINCIPAL statistics :—

The following statement gives the total value of the trade registered during the past three years at all the stations from Bengal only.

				Imports into Bengal.		
				1882-83.	1883-84.	1884-85.
				Rs.	Rs.	Rs.
From Nepal	...	...	...	75,60,604	71,76,210	72,16,819
„ Sikkim	...	...	...	2,00,148	2,21,523	3,75,987
„ Bhutan	...	...	...	1,11,442	96,350	1,34,189
Total	...	...	...	78,72,194	74,94,083	77,26,995
				Exports from Bengal.		
				1882-83.	1883-84.	1884-85.
				Rs.	Rs.	Rs.
To Nepal	...	...	...	55,57,525	64,56,930	68,18,097
„ Sikkim	...	...	...	1,16,294	1,12,711	2,04,735
„ Bhutan	...	...	...	86,693	1,23,000	1,43,308
Total	...	...	...	57,60,512	66,92,641	71,66,140

## Report on the Lunatic Asylums, Madras Presidency, 1884-85.

In the following table the results in these institutions for the year under report are compared with those of the two preceding years:—

	1882-83.			1883-84.			1884-85.		
	Males.	Females.	Total.	Males.	Females.	Total.	Males.	Females.	Total.
Remaining at end of previous year	...	...	...	...	...	...	...	...	...
Admitted	291	106	397	317	117	434	369	124	493
Deduct--	168	52	220	170	48	218	161	53	214
Died	35	8	43	19	5	24	21	14	35
Cured	43	23	66	75	23	98	75	15	91
Transferred to friends	43	9	52	20	9	29	26	7	33
Otherwise	21	1	22	4	4	8	5	30	5
Remaining at end of year	317	117	434	369	124	493	403	140	543
Daily average strength	314.17	109.35	424.03	353.22	121.95	475.17	383.32	137.71	521.03
Do. do. "sick"	14.05	6.83	20.58	12.89	6.12	19.01	13.07	5.09	18.16

These figures show plainly that the lunatic population to be accommodated in the three asylums of the presidency increases every year.

*Annual Report of the Lunatic Asylums of the Punjab, 1884.***P** RINCIPAL statistics :—

There were 283 lunatics in the Lahore Asylum on the 1st January 1884, 231 males and 52 females. At the Delhi Asylum there were 87, of whom 68 were males and 19 females. In the former 63 were admitted during the year, 50 males and 13 females; in the latter 64, 48 males and 16 females.

The total number of lunatics treated at both asylums during the year amounted to 497, of whom 397 were males and 100 females. Of these, 51 were cured, 39 males and 12 females. At Lahore 9 lunatics were made over to friends, 4 escaped, of whom 2 were re-captured, and 23 died. At Delhi 10 were transferred to friends, 6 were discharged, proving not insane, and 18 died

*Annual Report of the Insane Asylums in Bengal, 1884-85.***P** RINCIPAL statistics :—

*Lunatics in confinement.*—On the 1st January 1884 there were in all the asylums 907 persons. Of this number 724 were males and 183 females. The corresponding numbers for 1883 were 849, 663, and 186.

*Admissions.*—Of primary admissions in 1884, there were, males 166, and females 42, or a total of 208 persons. In 1883 the numbers were 184, 25, and 209, the increase over 1883 being females 17, and a decrease among males 18. Under the head of re-admitted, the total number was 24, or males 20 and females 4. There has been little or no fluctuations among the latter since the year 1881, the total number re-admitted in 1881, 1882, 1883, and 1884 being nearly the same.

*Population.*—The total population of 1884 exceeded that of 1883 by 58, or males 40 and females 18, the total numbers being 1,139 and 1,081. As I have stated, re-admissions were about stationary during the past four years; not so, however, the primary admissions, which had decreased to 195 in 1882, but rose to 209 in 1883 and to 208 in 1884.

The total population in like manner decreased to 1,056 in 1882—the lowest figure reached in the ten years period—rose to 1,081 in 1883, and to 1,139 in the past twelve months.

*Review of the Trade of India in 1884-85.***P** RINCIPAL statistics :—

Last year saw the progress of trade temporarily interrupted by a considerable restriction in the export trade, chiefly in exports of Indian production and manufacture, although the re-export trade also exhibits smaller dimensions than in the preceding year. The value of Indian merchandise exported diminished by about 477½ lakhs, being more than 5½ per cent. less than in 1883-84. Out of this sum nearly 374 lakhs represent the extent of the decline in the Rice and Wheat trade, which accounts for nearly 78 per cent. of the whole decrease in the value of the export trade. If to this item is added a decline of 109½ lakhs in the exports of raw Cotton the whole decrease in the export trade is more than accounted for. There was, indeed, a contraction of greater or less extent in some other important staples of the Indian export trade, such for instance as Coffee, Tea, Indigo, Opium, Silk, and Sugar, but in none was there a restriction at all approaching that which occurred in Rice, Wheat, and Cotton, and these smaller decreases were more than balanced by an expansion of trade in such items as Cotton, Yarn and Piece-goods, Hides and Skins, Jute and Gunny Bags, and Seeds. Although however the trade was slightly less than that of 1883-84, it was 26 per cent. in excess of that of 1879-80, six years previously.

Even such a small decline as 1½ per cent. in the volume of Indian trade is unpleasant to record, interrupting as it does a hitherto continuous record of expanding trade since the termination of the Famine of 1877 and 1878.

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